

# ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL



---

## PRISONERS IN ARIZONA

---

A Profile of the Inmate Population

Daryl R. Fischer, Ph.D.

March 2010

# Table of Contents

Executive Summary .....	2
Introduction.....	4
Chapter 1: Crime and Incarceration in Arizona.....	6
Chapter 2: Goals and Objectives.....	11
Chapter 3: General Prison Population Profile .....	14
Chapter 4: A History of Violence .....	26
Chapter 5: Criminal History .....	32
Chapter 6: Major Inmate Sub-Populations .....	40
Chapter 7: Non-Violent First Offenders-A Closer Look .....	57
Chapter 8: Gangs and Violence .....	65
Chapter 9: Special Inmate Populations .....	73
Chapter 10: Summary of Findings.....	77
Appendix: Data Collection and Categorization .....	80
Curriculum Vitae.....	86

# Executive Summary

This report from the Arizona Prosecuting Attorneys' Advisory Council provides a detailed statistical profile of the Arizona prison population as it existed on a recent date in history. The goal of the report is to create a body of information that might prove useful to policy-makers, legislators, and other parties interested in the kinds of offenders occupying prison beds in Arizona. Specifically, the report provides an in-depth analysis of the offenses for which inmates are committed, the sentences they are serving, their histories of felony violence, their prior criminal records, and other factors associated with their presence in the prison system. Information is presented for all 40,431 inmates sentenced for crimes committed in Arizona and in the custody of the Arizona Department of Corrections as of September 30, 2009.

## Major Findings

The current and prior offense histories and institutional records of inmates in the custody of the Department of Corrections, as recorded by the department's automated records system, were carefully screened for any history of violence, any indicators of repetitive criminal behavior, and any other factors that might be related to their imprisonment or to the prospects for a successful re-entry to the community. Major findings are as follows:

- A. Violent Offenders: Including sex offenses, 21,273 or 52.6% of inmates are currently committed for one or more violent offenses.<sup>1</sup> In addition, 11,608 or 28.7% have prior violent felonies. Taking into account both current and prior offenses, 26,457 or 65.4% of inmates may be classified as "violent offenders."
- B. Repeat Offenders: Overall, 33,896 or 83.8% of inmates were found to have one or more prior adult felony convictions or juvenile felony adjudications. Furthermore, 22,639 or 56.0% have two or more prior felonies on their record.
- C. Violent and Repeat Offenders: The vast majority of inmates, 38,088 or 94.2% of the total population, are either repeat felony offenders or have a history of felony violence.
- D. Non-Violent First Offenders: Factoring out violent and repeat offenders, 2,343 or 5.8% of inmates may be classified as "Non-Violent First Offenders."
- E. Non-Violent First Offenders: A Closer Look: One of the focuses of the present study was to take a close look at this population to determine why they occupy prison beds. We found that most (2,278=97.2%) exhibit clearly identifiable characteristics that explain or otherwise justify the use of scarce prison resources to detain them. Most notably, 1,460=62.3% are drug traffickers, 1,270=54.2% have ICE detainees and are likely undocumented aliens, 419=17.9% carry mandatory prison sentences, and 340=14.5% are technical probation violators.

---

<sup>1</sup> Violent offenses include, among others, offenses prosecuted as dangerous offenses or as dangerous crimes against children, and offenses ADC records indicate involved injury to a victim or weapon use or had a sexual element.

- F. Drug Possession: 2,563 or 6.3% of inmates are committed for drug possession as their most serious current offense. Across this population, 976 or 38.0% have a history of felony violence and 2,436=95.0% have prior felony records. Just 121 or 4.7% of these inmates are Non-Violent First Offenders, and 78 or 64.4% of the latter are technical probation violators.
- G. DUI Inmates: 2,834 or 7.0% of inmates are committed for DUI as their most serious current offense. 1,128 or 39.8% have a history of felony violence, 2,521 or 89.0% have prior felony records, and 2,131 or 83.1% have prior misdemeanor convictions. 295 or 10.4% are Non-Violent First Offenders.
- H. Inmates with Sentences of 1 Year or Less: 2,105 or 5.2% of inmates are committed with a sentence (total time to be served) of 1 year or less. 758 or 36.0% have a history of felony violence and 1,531 or 72.7% have prior felonies. 470 or 22.3% are Non-Violent First Offenders. 436 or 20.7% of these inmates are committed for DUI.
- I. DUI Inmates with Sentences of 1 Year or Less: 436 or 15.4% of DUI inmates are sentenced to a prison term of 1 year or less, including 334 or 76.6% with a mandatory flat term of 4-8 months. Of the total of 436, 73 or 16.7% have a history of felony violence and 213=48.9% have prior felony records. 218 or 50.0% are Non-Violent First Offenders.
- J. Technical Probation Violators: 3,780 or 9.3% of inmates were committed as technical probation violators. 1,985 or 52.5% have a history of felony violence, 3,137 or 83.0% have prior felony records, and 340 or 9.0% are Non-Violent First Offenders.
- K. Gang Members: 9,260 or 22.9% of inmates are suspected or validated members of prison and street gangs. 7,400 or 79.9% of gang members have a history of felony violence and 4,219 or 45.6% a history of institutional violence. The comparable percentages for non-gang members are 61.1% and 13.7%. 6,922 or 74.8% of gang members are violent repeat offenders, while just 69 or 0.7% are Non-Violent First Offenders. The comparable percentages for non-gang members are 48.9% and 7.3%.

### General Conclusions

The Arizona prison population may be split into four separate groups as follows:

- A. 22,265 or 55.1% are Violent Repeat Offenders
- B. 4,192 or 10.4% are Violent First Offenders
- C. 11,631 or 28.8% are Non-Violent Repeat Offenders
- D. 2,343 or 5.8% are Non-Violent First Offenders

The vast majority of current inmates are violent or repeat offenders (94.2%). Of the remaining 2,343 Non-Violent First Offenders, 62.3% are drug traffickers, 54.2% are foreign nationals with active ICE detainers, 17.9% carry mandatory prison sentences, and 14.5% are technical probation violators. Including the above, factors predisposing incarceration or weighing against early release are present for almost all Non-Violent First Offenders (97.2%).

# Introduction

As of the December 31, 2009, Arizona state prisons housed a total of 40,544 convicted felons. On that date, one out of every 162 residents of the state was behind bars. According to federal reports, Arizona has the sixth highest incarceration rate among the 50 states, exceeded only by five southern states. The prison population has been on a steady upward trend over the last 30 years, averaging 103 additional inmates every month. Growth in the state general population has certainly contributed to growth in the prison population, but the state still houses 4.6 times as many inmates per capita than it did in 1979. As a result of unrelenting growth in the inmate population, the budget of the Arizona Department of Corrections has reached a record \$1 billion (FY 2010), approximately 12% of a total state budget of \$8.4 billion. With this level of investment in the prison system, it is important to know that tax dollars are being spent wisely.

There has been concern in some quarters that Arizona is housing large numbers of low level drug offenders and other low risk felons at taxpayer expense. At a recent legislative hearing, it was stated that about half of Arizona prisoners are non-violent first offenders. If true, this would certainly cast doubt on the utility of the present system of sentencing and corrections in this state. Unfortunately, many of the perceptions regarding the prison population are not grounded in fact. In some cases, previously published data on the inmate population has been misinterpreted. More generally, however, existing data are insufficient to provide good answers to good questions about prisoners. This constitutes a serious problem for the state. Without good information, it is impossible to make sound decisions regarding the use of scarce tax dollars. In this report from the Arizona Prosecuting Attorneys' Advisory Council (APAAC), we begin to fill the information vacuum by shedding light on who is in prison in Arizona.

In November 2009, APAAC commissioned the present study to answer several important questions about the characteristics of state prisoners, questions that have come up many times in testimony before legislative committees, in the media, and among both critics and advocates of the way Arizona sentences and confines convicted felons. It is the intent to provide answers to such questions as:

- *How many inmates have histories of violent or sex crimes?*
- *How many inmates are first felony offenders, and more specifically how many are non-violent first offenders? What crimes are non-violent offenders in prison for?*
- *How many inmates are committed for drug possession, how many for drug trafficking, and how many of either group are first felony offenders?*
- *How many inmates are committed as the result of purely technical violations of probation? What crimes are they committed for?*
- *How many inmates are committed with sentences of 1 year or less? What crimes are they committed for and what are their criminal histories?*

With a \$1.4 billion budget shortfall looming, the State of Arizona is looking for ways to save money. Although the state may and likely will find other means to reduce spending, the early

release of prisoners is often put on the table as one possible option to achieve this end. Of course, this situation is not unique to Arizona. Many states have faced similar fiscal pressures, and some have been forced to make difficult decisions regarding their inmate populations, as will likely be the case in this state as well. The push to release prisoners early is often exacerbated by prison overcrowding and the desire to avoid expensive prison construction programs. California, Florida, New York, Texas, Illinois, and many other states have considered, and in some cases implemented, early release programs either to save money or to reduce prison overcrowding or both.

In October 2009, facing the possibility of a 15% budget cut (approximately \$150 million), the director of the Department of Corrections submitted a tentative plan to release prisoners early among other budget cutting measures, including staff reductions. The plan recognized the fact that a budget cut of this magnitude would likely require a considerable reduction in sentence lengths for large numbers of inmates, the early release of some violent offenders, and a reduction in staff to dangerously low levels. In light of the seriousness of these implications, and especially of the public safety and prison security concerns that accompany reducing the department's budget to this extent, it is imperative that good information on potential early release candidates be made available before any decisions are made along these lines. Even in a good economic environment, it is to the advantage of the Governor, the Legislature, the criminal justice community, and all interested citizens to know as much as possible about the makeup of the prison population. In a poor economic climate the need to know grows exponentially. It is precisely the goal of this report to fill the information gap regarding the prison population.

# Chapter 1: Crime and Incarceration in Arizona

According to the Bureau of Justice Statistics, only five (5) states incarcerate offenders at a higher rate than Arizona.<sup>1</sup> On December 31, 2008, Arizona imprisoned felons with sentences of more than 1 year at the rate of 567 per 100,000 residents. This rate was exceeded only by Louisiana (853), Mississippi (735), Oklahoma (661), Texas (639), and Alabama (634). Arizona's rate of imprisonment was by far the highest among the 13 western states, with Nevada second at 486. Naturally, there are reasons for the high rate of incarceration in Arizona, not the least of which is the relatively high crime rate in the state.

According to the FBI, Arizona had the fourth highest crime rate among the 50 states during 2008 at 4,738 serious "Part I" crimes per 100,000 residents, trailing only South Carolina (4,964), Florida (4,830), and Tennessee (4,765).<sup>2</sup> As a matter of fact, Arizona recorded the highest rate of property crime among the 50 states during 2008 at 4,291 Part I property crimes, burglary, larceny/theft, and motor vehicle theft, for every 100,000 inhabitants. Crime continues to be a major problem in Arizona despite the fact that the crime rate has dropped every year and by a total of 25.8% since 2002.

One concern of state officials and private citizens alike is whether or not Arizona has experienced crime reduction benefits from devoting such a large portion of the state budget to corrections. While this question is difficult to answer definitively, there is evidence that increased use of incarceration contributed to a 42% drop in serious crime from 1995 to 2008. In this chapter, we present the facts regarding crime and incarceration in Arizona. Specifically, we track growth in prison population, growth in the general population, and changes in the crime rate over the last three decades, as well as relationships among the three trends. In subsequent chapters, we take up the general issue of the makeup of the state's inmate population.

Along with many other states, Arizona has experienced continuing prison population growth over the last three decades. However, Arizona's experiences in this regard seem to exceed those experienced nationally. Across the nation, from 1980 to 2008, prison population (end-of-calendar-year custody counts) grew from 319,598 to 1,518,559 or by 475%. Over the same time frame, Arizona's prison population grew from 3,859 to 39,602 or by 1,024%. Clearly, Arizona's prison population growth problems match and likely exceed those experienced in most other states.

Figure 1 below tracks growth in the state prison population over the period 1979-2009. This span is of interest in part because 1979 was the year following enactment of a new criminal code and the change from indeterminate to "presumptive" sentencing. A number of new mandatory sentences were installed in the eighties followed by the enactment of "Truth-in-Sentencing" in 1994. In any case, over the 30-year period 1979-2009, while the effects of these changes were taking hold, prison population grew from 3,489 to 40,544, a 1,062% or nearly 12-fold increase.

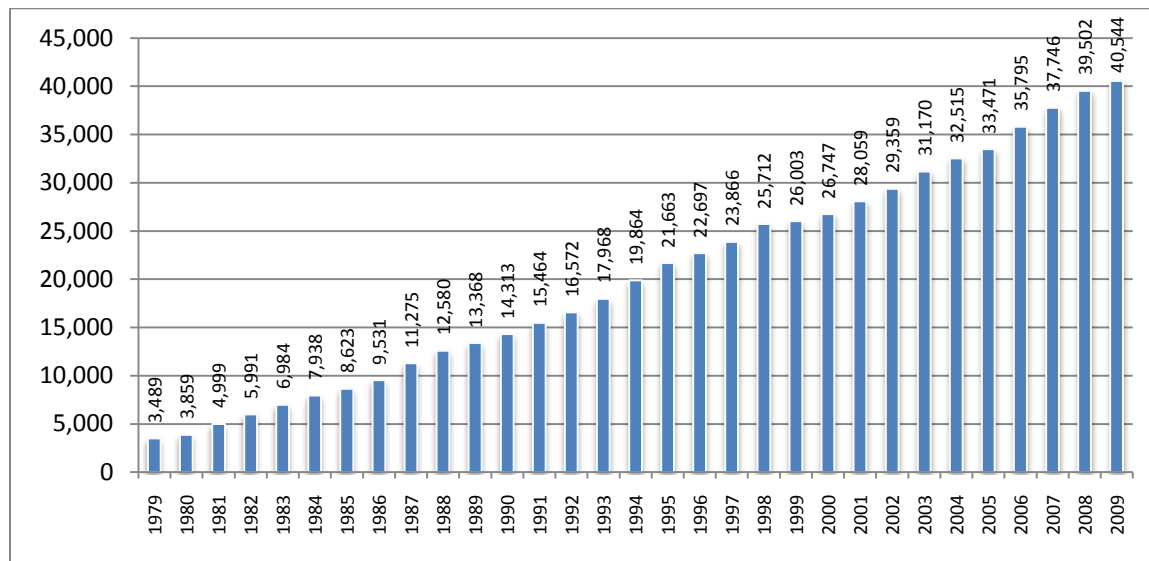
---

<sup>1</sup> Prisoners in 2008, Bureau of Justice Statistics, U.S. Department of Justice, December 2009.

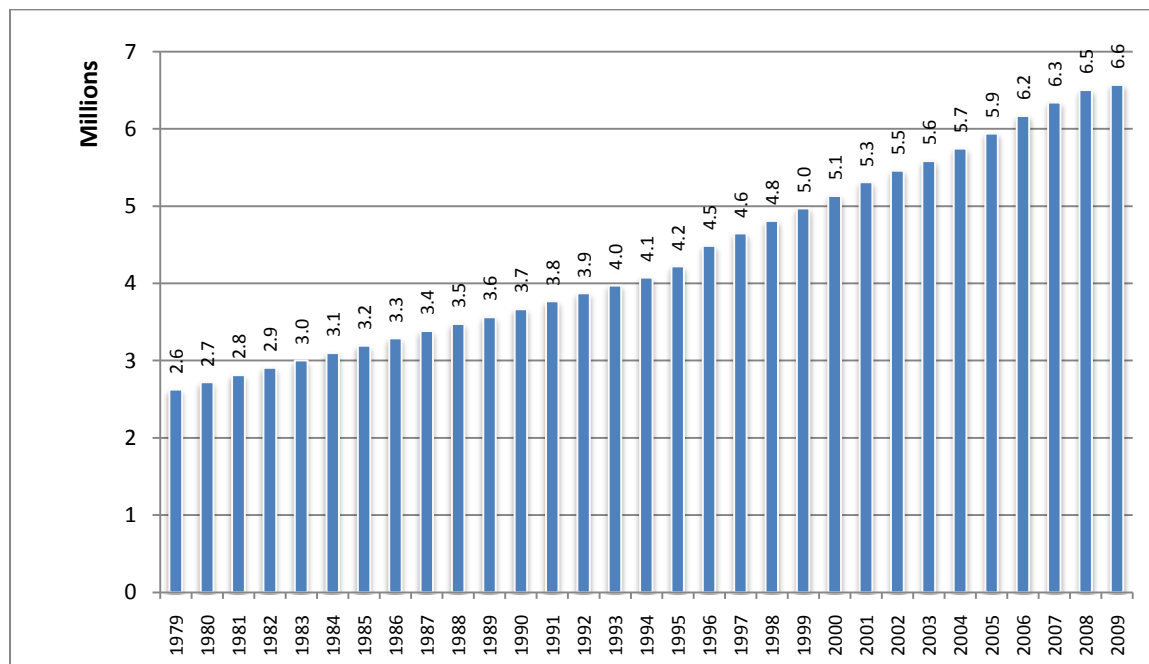
<sup>2</sup> Crime in the United States 2008, Federal Bureau of Investigation, U.S. Department of Justice, September 2009.

This level of growth was due to two factors, a 150% increase in the state general population (Figure 2), from 2.6 million to 6.6 million, and a 364% (nearly 5-fold) increase in the state's incarceration rate (measured as total inmates per 100,00 population—see Figure 3). In 1979, one in every 752 Arizona residents was in prison. By 2009, that ratio had grown to one in every 162. Clearly, prison population was growing at a much faster pace than the general population.

**Figure 1: Growth in the State Prison Population, 1979-2009**



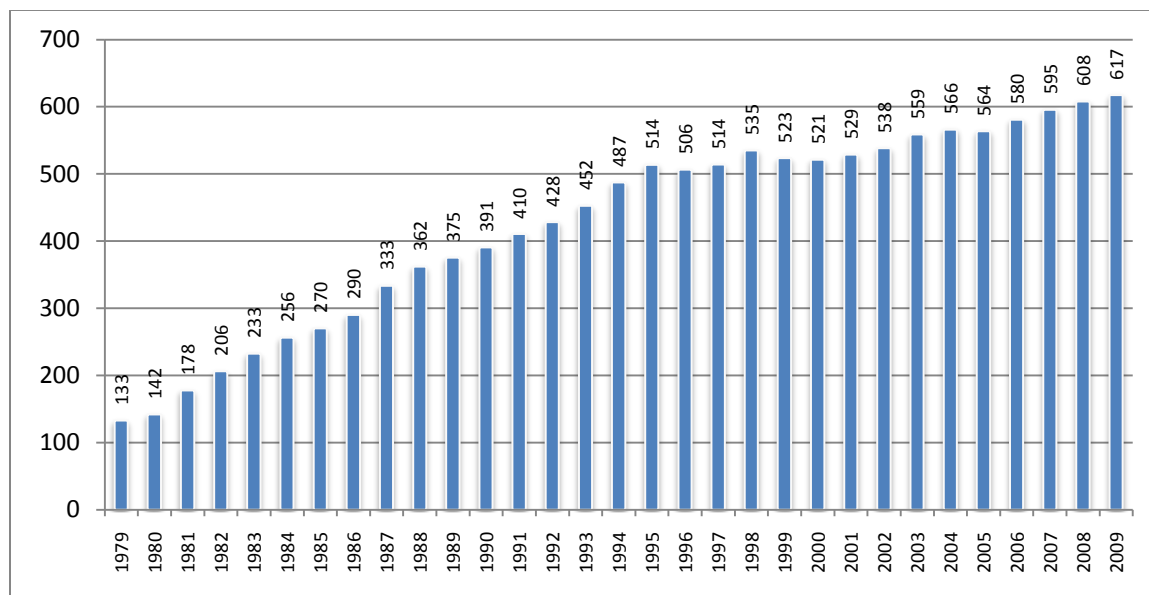
**Figure 2: Trend in the State General Population, 1979-2009**



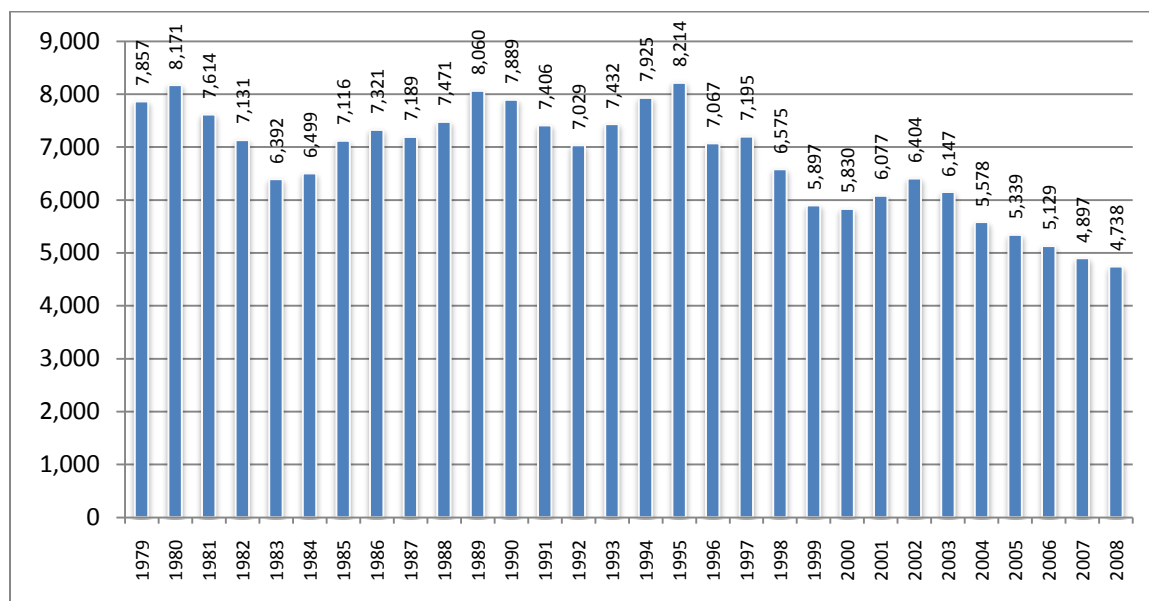


While the state is incarcerating far more offenders per capita (Figure 3), the source of this increase is not so clear. Certainly, increased levels of reported crime could not have been the cause as the crime rate has been either relatively steady or decreasing across the 30-year period (Figure 4). In fact, the crime rate has been dropping unevenly but precipitously since 1995.<sup>1</sup>

**Figure 3: Trend in the Arizona Incarceration Rate, 1979-2009**



**Figure 4: Trend in the Arizona Crime Rate, 1979-2008**



<sup>1</sup> Crime rate data for 2009 will not be available until circa September 2010.

As demonstrated by Figures 3 & 4, over the period 1995-2008, the crime rate dropped by 42.3% as the incarceration rate was increasing by 18.3%. Although the increase in the prison population (+82.3%) during the period 1995-2008 was far less dramatic than during the period 1979-1995 (+521%), the possibility of an impact on crime was far more apparent. Perhaps mandatory sentencing, Truth-in-Sentencing and other provisions of the new criminal code have served to reduce crime in some fashion. The Department of Corrections has documented that the average length of stay increased by about one-third from the mid-eighties to the late nineties and into the last decade. If an increased length of stay in the department served to keep active criminals off the streets for longer periods, this could have resulted in a net reduction in crime. Also, the deterrent effects of harsher penalties, and particularly those associated with mandatory sentencing, could have had an effect as well. However, an increasing incarceration rate and a falling crime rate did not co-occur until after Truth-in-Sentencing took effect in 1994. It was in 1995 that the crime rate began dropping precipitously. To summarize, here are the facts in favor of the crime rate impact scenario.

#### The Facts about Crime and Incarceration: 1995-2008

- 18.3% increase in the incarceration rate
- 54.1% increase in the state general population
- 82.3% increase in the prison population
- 42.3% decrease in the crime rate

Whether or not increased use of incarceration has impacted levels of reported crime, the question still remains as to the source of the growth in the incarceration rate. Whatever the source of the increase, it clearly cannot be increased levels of Part I or reported crime. However, increases in other types of crimes may have contributed to the trend. In looking more closely at the increase in the incarceration rate since 1995, we find that there was very little increase from 1995 to 2002, up from 514 to 538 (+4.7%). However, from 2002 to 2009, the incarceration rate rose much more dramatically--from 538 to 617 (+14.7%). Coupled with a 20% increase in general population, the net result was a 38% increase in prison population, from 29,359 at the end of 2002, to 40,544 at the end of 2009. Therefore, it is appropriate to examine possible causes of a rising incarceration rate since 2002.

Since the source of the increase cannot be an increase in Part I crime, it must draw from either an increase in Part II crime (e.g., drug offenses, DUI, and sex offenses), a change in the way law enforcement apprehends felons, or a change in the way the justice system processes them once in custody. It is partially speculative at this point, but the increase in methamphetamine use during the past decade, having the ripple effect of increased admissions of drug users and dealers, may be one of the major contributors to a rise in the incarceration rate since 2002, and especially since 2005. Data from the department's archives indicate a dramatic increase from FY 2006 to FY 2009 in the number of first-time non-violent offenders committed for drug possession and paraphernalia offenses. Increased trafficking and use of methamphetamine has more than likely contributed to this trend.

Independent calculations performed by the author show that from September 30, 2006 to September 30, 2009, the number of inmates with a drug offense as the most serious committing offense increased much more (up 28.6%) than the rest of the population (up 12.0%). This discrepancy translates to an additional 1,102 inmates committed for drug offenses as of September 30, 2009. In fact, 41% of the increase in the incarceration rate from 2006 (580) to 2009 (617) may be traced directly to the observed increase in drug offenders in the population. These facts clearly support the conclusion that a disproportionate increase in drug offenders in prison has contributed to the higher rate of increase in the state's incarceration rate since 2005.

It is certainly possible that much of the remaining increase in the incarceration rate (59%) is associated with increased methamphetamine use. For instance, it is well known that certain types of property offenders tend to be meth users. Identity theft, credit card fraud, and forgery are known to associate with meth use, and the statistics bear that out. For instance, the frequency of known meth use among inmates committed for identity theft is 2.8 times the general population frequency. For credit card fraud and forgery, respectively, the corresponding ratios are 2.4 times and 2.0 times. Couple these facts with the fact that the number of inmates committed for identity theft and credit card fraud has increased dramatically in recent years, and you have at least one additional explanation for increased population growth aside from the disproportionate increase in committed drug offenders already noted.

Increased meth use is certainly a major contributor to higher levels of growth in the state prison population. Statistical analysis shows that, overall, across offense categories that show an above average increase in inmates from 2006 to 2009, there was an 88% higher rate of meth use than across offense categories showing less than average increases. In short, increased methamphetamine trafficking and use, an accelerated flow of drug offenders through the prison system, plus an increase in identity theft, credit card fraud, and other drug-related crimes, likely driven by increased meth use as well, are among the probable causes of the recent prison population growth spurt.

Another probable cause of continuing increases in the incarceration rate is disproportionate growth in the population of undocumented aliens in custody. While exact data are not available on this inmate category, ADC records do indicate a population of 5,797 Mexican nationals (14.3% of the total population) as of September 30, 2009. This population has increased dramatically in recent years, most likely in sync with increased drug traffic across the Mexican border. It is a known fact that Mexican meth labs are pumping out a more potent form of methamphetamine that is drawing more and more users in the states. In support of the presumed link between drug trafficking and illegal border crossings, Mexican Nationals in ADC custody are twice as likely as other inmates to have a history of drug trafficking (36.7% to 17.9%). With increased meth trafficking, and more emphasis on drug enforcement and the apprehension of undocumented aliens, a ripple effect on the prison population is inevitable.

## Chapter 2: Goals and Objectives

One of the major objectives of the present study is to provide an in-depth statistical breakdown of the inmate population. Given the tremendous increase in the number of prisoners over time, it would be nice to know who is being kept off the street and away from potential victims in exchange for the huge fiscal investment in the Department of Corrections. In raising this issue, there is no intent to promote any kind of early release program for prisoners. Rather, the goal and strategy is simply to break out the inmate population into clearly defined categories that may be judged, individually and collectively, as to the threat they pose to society, and the consequent benefits of incarceration. Clearly, some inmate groups pose more of a threat than others. Furthermore, some measures of threat are more explicit than others. In this report we will concentrate on the more explicit categories of threat or risk, dealing with the most apparent and easily measured characteristics of inmates. In developing categories that address the general issue of threat to society, the major concern has to be the extent to which the inmate has compromised the safety of the general public by past criminal acts. Accordingly, individual groups will be judged based on the past behavior of its members and how that behavior reflects the danger they pose to society while on the street.

High degrees of threat to the public are typically exhibited by violent offenders with a repetitive pattern of criminal behavior, i.e., violent repeat offenders.<sup>1</sup> Among these offenders, the most threat would generally be posed by those with repetitive histories of violence. However, offenders with a history of both violent and non-violent crime should not be under-estimated, especially since they usually have more opportunities for violence than those who commit violent crimes only. For instance, a burglar with a history of violence might be prone to commit an aggravated or first-degree burglary in which either a weapon or injury to a victim is involved, and may have many such opportunities. It is for this reason that a current non-violent offender with a past history of violence should not be under-estimated for threat or risk to the public. In such cases, the history of violence is less evident in the record and may be overlooked.

Aside from violent repeat offenders, two other groups also pose some significant degree of threat to the public, those being violent first offenders and non-violent repeat offenders. In the case of the violent first offender, there is always the risk that if the crime was committed once, then it might be committed again. Certainly, the consequences or threat posed by the repetition of a violent crime are worth considering. It is in part because of that perception of threat that violent offenders tend to receive longer sentences and are seldom released early. Most child molesters in Arizona prisons have no prior history of felony violence (82%), yet the consequences of a repetition of that kind of crime are most likely severe. It is for this reason that many of these inmates must serve out long flat-term sentences in Arizona. However, some types of violent crime are far less serious than the aforementioned. Wherever feasible, we reveal the specific category of crime for which the inmate was convicted. In this manner, judgments may be made “crime-by-crime.”

---

<sup>1</sup> In this initial discussion, we use the term “violent” to mean any crime that poses an actual or potential threat to persons, including sex offenses. Subsequently, sex crimes will be categorized separately from violent crimes.

Non-violent repeat offenders also pose some significant degree of threat to the general public. In this case, the threat is often perceived as less since the consequences of re-offending are generally less. However, it is well known that the majority of crimes are committed by non-violent offenders, and often in very large numbers. Burglars and vehicle thieves, for example, often commit dozens of crimes before being caught and convicted. According to the Department of Public Safety, only about 1 in 14 burglaries and 1 in 13 motor vehicle thefts were cleared by arrest during 2008. This testifies to the likelihood that non-violent repeat offenders are convicted of far fewer crimes than they actually commit.

But just how active is the typical repeat offender sentenced to prison? A study conducted by the Bureau of Justice Statistics found that 272,111 offenders released from prison in 1994 across the U.S. were charged with a total of 4,876,654 offenses or 17.92 charges per offender.<sup>1</sup> This included 4,132,174 charges for crimes committed prior to incarceration (15.19 per offender) and 744,480 for crimes committed within three years of release from custody (2.74 per offender). Overall, 183,675 or 67.5% of these offenders were re-arrested for an average of 4.05 new charges each within the three-year follow-up period. Furthermore, 46.9% were reconvicted and 51.8% were returned to prison within three years, including 25.4% for new felonies.

Naturally, the question arises as to how Arizona inmates compare to prisoners nationally when it comes to recidivism? In a study conducted by the author for the department last year, we found that 24.8% of 60,754 inmates released during the period July 2001-June 2007 returned to ADC custody with a new felony conviction within three years of release. In extending out the follow-up period, we found that 42.6% would return with a new felony conviction within eight years of release. In a previous recidivism study conducted in the early part of the decade, it was thoroughly documented that the best predictors of recidivism are age, criminal history, and gang affiliation. Among, 54,660 inmates released over the period 1990-1999, 43.8% returned with a new felony conviction within eight years. However, that rate was much higher for repeat offenders. For instance, 70.0% of inmates with three or more prior adult felony convictions returned to custody with a new felony conviction within eight years. The highest recidivism rates were recorded by gang members, with 86.7% of gang member suspects and 93.0% of validated gang members returning to custody with a new felony conviction within eight years.

On the positive side, an evaluation conducted in conjunction with the first of the two studies showed that recidivism rates were reduced by an average of 25.0% for inmates who participated in rehabilitation programs while in custody. Among the programs evaluated, Arizona Correctional Industries (ACI) proved to be the most effective, reducing recidivism by 31.6%. Substance abuse programs were also highly effective, reducing recidivism by 28.1%. In part due to rehabilitation, the greatest reduction in recidivism (45.3%) was recorded by inmates who served 10 years or more in prison. The only inmate categories showing increases in recidivism were those in which less than two years was served. These results suggest that correctional intervention really does work to rehabilitate offenders. However, the results also show that it takes time for inmates to reap the benefits of rehabilitation. It is certainly not in the best interests of this state for correctional program budgets to be cut to save money.

---

<sup>1</sup> Recidivism of Prisoners Released in 1994, Special Report; Bureau of Justice Statistics, U.S. Department of Justice, June 2002.

Having dealt with the three categories of violent and repeat offenders, this leaves us with the category of “non-violent first offenders,” those inmates in prison for first felony convictions and with no history of felony violence. The major issue that arises with regard to this sub-population is the impetus or cause behind the inmate’s presence in a prison bed. Normally, non-violent first offenders are granted probation. The fact that these offenders occupy prison cells is a fact worthy of further investigation, and that is precisely one of the goals of this study. There is also the issue as to whether or not inmates in this category would constitute good candidates for some type of early release program. In any case, past research indicates that the following factors should be considered when reviewing the credentials of non-violent first offenders:

- Commitment for a Class 2 felony, a more serious than average non-violent crime
- Commitment for drug trafficking, also considered a more serious non-violent crime
- A current sentence of 4 years or more--longer than average for most non-violent crimes
- Imposition of a mandatory minimum sentence or flat term
- Current admission as a technical probation or parole violator
- Current offenses committed on multiple dates—indicating repetitive criminal behavior
- Affiliation with a prison or street gang
- A history of institutional violence or other serious discipline problem
- An active felony detainer
- Status as an undocumented alien as evidenced by an active ICE detainer

While these factors in any number may be demonstrated by the other three offender groups, they play a proportionately greater role in assessing the status of non-violent first offenders. To summarize, it is our intent in this report to separate the prison population into four individual groups along the lines discussed above so that judgments may be made about the use of scarce resources to house convicted felons. In undertaking this course of inquiry, we will need to look primarily at histories of violence and sex crime, as well as the overall criminal histories of Arizona inmates. Other factors as listed above will come into play only to the extent necessary to distinguish the four groups, and particularly non-violent first offenders. Please see the appendix to the report for the details concerning data collection and categorization.

## Chapter 3: General Prison Population Profile

As of September 30, 2009, a total of 40,514 inmates were held in the custody of the Arizona Department of Corrections.<sup>1</sup> This total included 83 inmates who were sentenced in other states and were resident in Arizona prisons pursuant to the Interstate Compact for Prisoners. Since these inmates were not sentenced under Arizona law, and since the information in the inmate database is incomplete for this category of inmate, we elected to delete them from our study of the inmate population. This leaves a total of 40,431 inmates for which detailed information is provided throughout the remaining body of the report. It may be recalled from the first chapter that the calendar-year-ending prison population in Arizona was 40,544. Accordingly, the target population for this report is approximately the same as the ending population for the year.

We initiate our analysis of the prison population with a general population profile. This includes a look at current committing offenses, lengths and types of sentences imposed by the court, custody level assignments, and types of commitment to the department. Table 1 below shows the most serious current committing offense, including felony class, for inmates in custody on September 30.<sup>2</sup> There are two types of offense description, the first a general description of the category of the offense, and the second a more detailed description based on the applicable statute. Coupled together, the A.R.S. description and felony class provide a succinct indicator of both the nature of the offense and of its seriousness. The selection of the most serious offense was based first on felony class and then on the length of sentence imposed in the case of ties.

While aggravated assault is the single most frequent committing offense, with 4,017 inmates, the three drug trafficking offenses taken together account for more inmates (5,955). DUI, armed robbery, and theft of means of transportation each account for approximately 2,700-2,800 inmates. Figure 5 below identifies the fact that 18,900=46.7% of inmates are committed for a violent or sex offense as their most serious current offense, with property offenses (9,408=23.3%) and drug trafficking (6,005=14.9%) accounting for most of the rest of the population. Drug possession (2,563=6.3%) and DUI (2,834=7.0%) contribute less to the size of the prison population in Arizona than one might expect based on the numbers of inmates sentenced to prison for these crimes. This is due to the shorter sentences imposed for these offenses and the fact that this portion of the inmate population turns over quite rapidly.

Figure 6 shows that the most frequent felony class is Class 2 (12,223=30.2%), with Class 3 not far behind at 12,162=30.1%. Class 4 felonies account for an additional 10,362=25.6% of the population. The other three felony classes lag far behind, with each accounting for less than 2,300 inmates. Taken as a group, Class 1-3 felonies, representing the most serious offenses, account for 26,775=66.2% of the inmate population.

---

<sup>1</sup> This number differs slightly from the number listed in the department's population reports (40,601) due to a slight difference in the timing of the creation of the files used for this study in comparison to the time(s) the official inmate counts were taken for that day. Typically, the inmate population can vary by up to 200 inmates from day-to-day depending on when large transfers from county jails occur. Thus, the noted difference in the inmate counts for September 30 is of slight significance.

<sup>2</sup> Old code offenses were assigned to the most appropriate felony class to facilitate the presentation. Also, the table includes only those offenses with inmate counts of seven (7) or more.

**Table 1: Most Serious Current Committing Offense\***

Description of the Most Serious Current Offense	Felony Class						Grand Total
	1	2	3	4	5	6	
Violent Offense	2,289	5,959	3,581	2,125	323	576	14,853
Sex Offense	0	2,103	1,579	291	37	37	4,047
Property Offense	0	751	4,959	2,633	402	663	9,408
Drug Trafficking	0	3,272	1,947	728	27	31	6,005
Drug Possession	0	0	0	1,770	117	676	2,563
DUI	0	0	0	2,795	7	32	2,834
Escape or Related Offense	0	138	97	13	318	104	670
Public Order/Morals Offense	0	0	0	7	27	17	51
<b>Grand Total</b>	<b>2,289</b>	<b>12,223</b>	<b>12,163</b>	<b>10,362</b>	<b>1,258</b>	<b>2,136</b>	<b>40,431</b>
Aggravated Assault		495	2,803	329	123	267	4,017
DUI				2,795	7	32	2,834
Armed Robbery		2,540	220	7			2,767
Theft of Means of Transportation			2,498	166	6	6	2,676
Trafficking in Dangerous Drugs		1,604	692	116			2,412
Trafficking in Narcotic Drugs		1,283	552	229	1	4	2,069
Trafficking in Marijuana		369	690	367	25	26	1,477
Molestation of a Child		785	665	1		1	1,452
Sexual Conduct with a Minor		768	572	3	1	18	1,362
Misconduct Involving Weapons		3	3	1,326	14	15	1,361
First Degree Murder	1,175	171	10				1,356
Burglary in the Second Degree			1,228	100	6	5	1,339
Second Degree Murder	1,036	171	2	1			1,210
Possession of Dangerous Drugs				1,135	56	8	1,199
Burglary in the Third Degree				992	48	11	1,051
Kidnapping		890	70	9	1		970
Forgery				841	33	10	884
Theft		109	366	99	42	190	806
Manslaughter		746	28			1	775
Trafficking in Stolen Property		185	482	51	4	8	730
Possession of Narcotic Drugs				635	47	26	708
Burglary in the First Degree		408	62	5			475
Possession, Manufacture, etc. of Drug Paraphernalia						458	458
Fraudulent Schemes and Artifices		369	75	4	2	2	452
Sexual Assault		361	81				442
Robbery				262	33	4	299
Sex Offender Registration Violation			1	261	17	7	286
Taking or Knowingly Accepting Identity of Another Person		8	39	183	16	5	251
Drive by Shooting		220	9		1		230
Child or Vulnerable Adult Abuse		65	64	55	17	19	220
Sexual Exploitation of a Minor		123	90				213
Promoting Prison Contraband		133	55	4	12	5	209
Unlawful Use of Means of Transportation			16	3	125	63	207
Aggravated Robbery			173	21	1	8	203
Unlawful Flight from Pursuing Law Enforcement Vehicle				1	193	7	201
Possession of Marijuana					6	184	190
Aggravated Taking of Identity of Another Person			166	8	3	1	178
Shoplifting				129	13	13	155
Sexual Abuse		3	122	16	10	2	153
Aggravated Domestic Violence				1	102	15	118
Endangerment					1	108	109

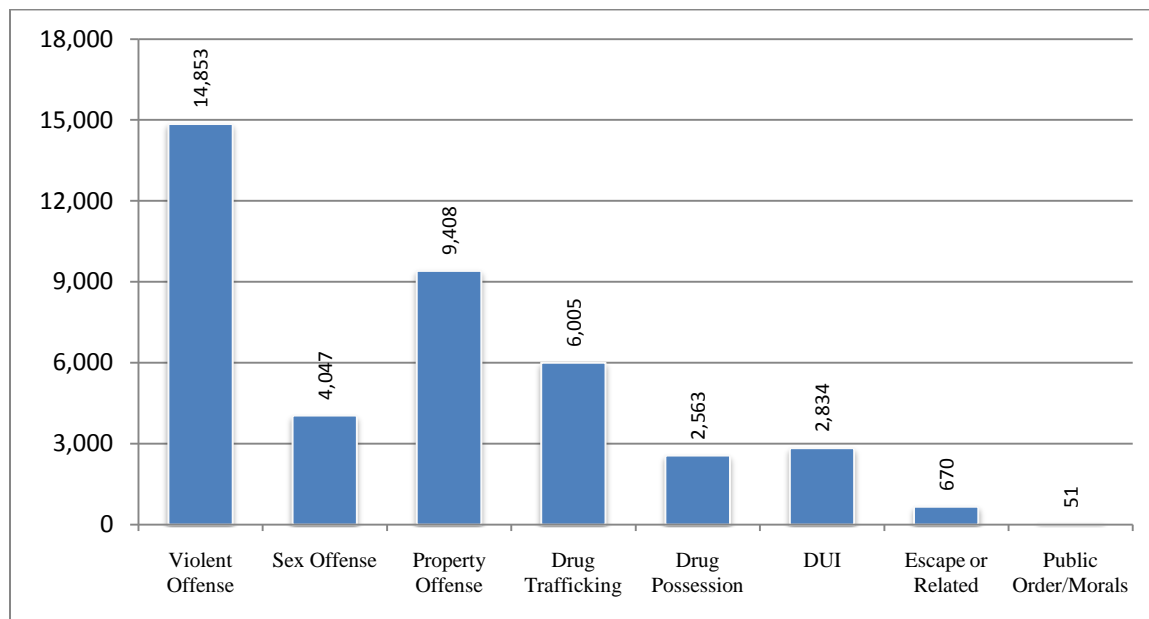


**Table 1: Most Serious Current Committing Offense (continued)\***

Description of the Most Serious Current Offense	Felony Class						Grand Total
	1	2	3	4	5	6	
Criminal Trespass in the First Degree						93	93
Discharging a Firearm at a Structure		71	17				88
Escape in the Second Degree					85	3	88
Participating in or Assisting a Criminal Syndicate		44	39	3	2		88
Disorderly Conduct (Reckless Use of Weapon)						85	85
Possession of Burglary Tools				2		77	79
Theft of a Credit Card or Obtaining Credit Card by Fraud				2	65	11	78
Resisting Arrest						73	73
Murder (Old Code)	72						72
Negligent Homicide				71			71
Arson of an Occupied Structure		58	9	2			69
Criminal Damage				18	21	29	68
Criminal Possession of a Forgery Device						67	67
Trafficking in the Identity of Another Person		44	13	5	1	3	66
Dangerous or Deadly Assault by Prisoner or Juvenile	6	32	10				48
Illegal Control of or Illegally Conducting an Enterprise		4	39	3			46
Failure to Stop: Accidents Involving Death-Personal Injury		4	24	5	7	1	41
Conducting a Chop Shop		29	5	1			35
Criminal Impersonation						35	35
Child Prostitution		17	16				33
Continuous Sexual Abuse of a Child		21	12				33
Money Laundering		2	20	2	4		28
Participating in or Assisting a Criminal Street Gang		10	17			1	28
Smuggling				10	10	8	28
Threatening or Intimidating			17	7		4	28
Involving or Using Minors in Drug Offenses		14	12				26
Prisoners who Commit Assault with Intent to Incite to Riot		16	8				24
Aggravated Harassment					7	16	23
Luring a Minor for Sexual Exploitation			20	2		1	23
Stalking			12	3	7		22
Prostitution					16	5	21
Hindering Prosecution in the First Degree			13		5	2	20
Rape (Old Code)		18					18
Use of Wire-Electronic Communication in Drug Transactions				15	1		16
Arson of a Structure or Property				12	3		15
Failure to Appear in the First Degree					13	2	15
Unlawful Discharge of Firearms		3	1			10	14
Unlawful Imprisonment						14	14
Theft by Extortion		6	1	5	1		13
Criminal Simulation						10	10
Aggravated Criminal Damage			3	2	2	2	9
Escape in the Third Degree					1	8	9
Custodial Interference			5	2		1	8
Destruction of or Injury to Public Jail				1	7		8
Hindering Prosecution			5		2	1	8
Possession-Sale of Vapor-Releasing Subst. Cont. Toxic Substance					8		8
Unlawful Copying--Sale-Sounds/Images from Recording Devices			4	2		2	8
<b>Grand Total</b>	<b>2,289</b>	<b>12,223</b>	<b>12,163</b>	<b>10,362</b>	<b>1,258</b>	<b>2,136</b>	<b>40,431</b>

\*Offenses with counts of eight (8) or more

**Figure 5: Most Serious Current Offense Category**



**Figure 6: Felony Class of the Most Serious Current Offense**

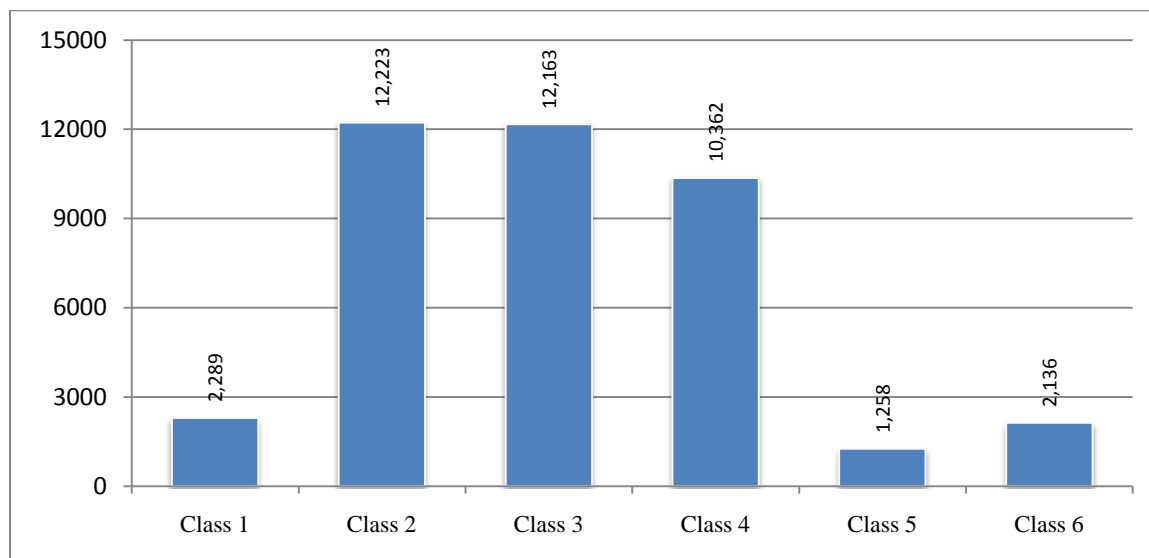


Table 1 provides a revealing but incomplete picture of the Arizona prison population. For one, many inmates are committed for multiple offenses, often falling in different categories, e.g., burglary and assault, whereas only a single offense is listed in Table 1. Also, many inmates have serious prior offenses that are not taken into account by the table. Because of these factors and others, one needs to look at the population from a variety of perspectives to get the full picture of the kinds of inmates occupying prison cells in Arizona. For a start, Tables 2 and 3 below provide a look at the total amount of time inmates are serving on all current active sentences.

**Table 2: Total Time-to-be-Served by Most Serious Current Offense Category (#)**

<b>Total Time to be Served</b>	<b>Violent Offense</b>	<b>Sex Offense</b>	<b>Property Offense</b>	<b>Drug Trafficking</b>	<b>Drug Possession</b>	<b>DUI</b>	<b>Escape or Related Offense</b>	<b>Public Order/ Morals Offense</b>	<b>All Offenses</b>
0.00-0.99 Years	346	27	543	76	559	432	77	16	2,076
1.00-1.99 Years	1,024	121	1,563	801	1,098	843	252	26	5,728
2.00-2.99 Years	1,485	166	1,747	1,107	427	570	82	3	5,587
3.00-3.99 Years	1,076	132	1,378	917	247	390	52	4	4,196
4.00-4.99 Years	1,495	270	1,107	1,289	107	230	56	1	4,555
5.00-5.99 Years	1,059	143	1,357	570	39	93	40	1	3,302
6.00-6.99 Years	1,088	200	529	328	26	106	21	0	2,298
7.00-7.99 Years	491	61	318	328	11	33	20	0	1,262
8.00-8.99 Years	1,030	512	320	158	28	82	12	0	2,142
9.00-9.99 Years	442	164	162	96	1	10	8	0	883
10.00-10.99 Years	515	117	120	83	8	23	8	0	874
11.00-11.99 Years	317	85	57	53	2	3	8	0	525
12.00-12.99 Years	404	188	38	37	1	4	6	0	678
13.00-13.99 Years	287	68	31	68	1		4	0	459
12.00-14.99 Years	183	102	18	12	0	1	4	0	320
15.00-15.99 Years	343	31	20	21	1	1	1	0	418
16.00-16.99 Years	158	235	16	7	0	1	2	0	419
17.00-17.99 Years	228	48	9	4	0	0	1	0	290
18.00-18.99 Years	154	30	4	10	0	0	2	0	200
19.00-19.99 Years	233	227	8	5	0	0	0	0	473
20+ Years	2,495	1,120	63	35	7	12	14	0	3,746
<b>Grand Total</b>	<b>14,853</b>	<b>4,047</b>	<b>9,408</b>	<b>6,005</b>	<b>2,563</b>	<b>2,834</b>	<b>670</b>	<b>51</b>	<b>40,431</b>
5+ Years	9,427	3,331	3,070	1,815	125	369	151	1	18,289
10+ Years	5,317	2,251	384	335	20	45	50	0	8,402
Life Sentence	1,261	147	2	8	1*	0	0	0	1,419
Death Sentence	128	0	0	0	0	0	0	0	128
Median (50th %-tile)	6.80	12.38	3.22	4.07	1.93	2.15	2.04	1.51	4.28

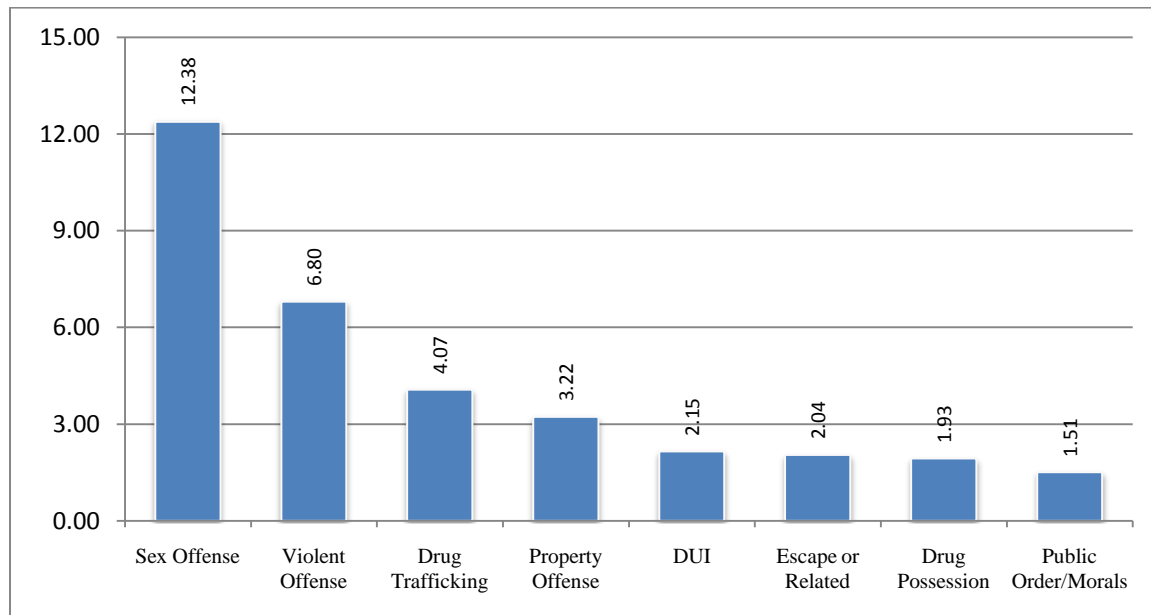
\*Sentenced to life in prison for Possession of Narcotic Drugs: Offense Committed while Released from Confinement

Rather than the actual sentence(s) imposed by the court, the quantity considered here is “total time-to-be-served” or TTBS on all current sentences, which was calculated as the difference between the earliest sentence begin date of all current sentences and the projected release date based on the current time computation for the inmate. This represents the time the inmate is expected to serve assuming he or she does not lose additional good time credits. It constitutes either 100% of the sentence imposed for flat term sentences, 85.7% of the sentence imposed for a Truth-in-Sentencing release, or 85.7% minus days released early on temporary release, drug transition program release, or both. It also considers good time credits lost to-date.

The median TTBS across the inmate population is 4.28 years, meaning that 50% of inmates are serving more than 4.28 years and 50% are serving less. Overall, 45.2% of inmates are serving 5 years or more, but that percentage varies considerably, from 2.0% for public order/morals offenses, to 4.9% for drug possession, 13.0% for DUI, 22.5% for escape and related offenses, 30.2% for drug trafficking, 32.6% for property offenses, 63.5% for violent offenses, and 82.3% for sex offenses. Of particular interest (Figure 7) is the fact that the median TTBS is almost six years more for sex offenses (12.38 years) than it is for violent offenses (6.80 years). Particularly, 41.0% of sex offenders and 22.0% of violent offenders have a TTBS of sixteen years or more.

**Table 3: Total Time-to-be-Served by Most Serious Current Offense Category (%)**

Total Time to be Served	Violent Offense	Sex Offense	Property Offense	Drug Trafficking	Drug Possession	DUI	Escape or Related Offense	Public Order/ Morals Offense	All Offenses
0.00-0.99 Years	2.3%	0.7%	5.8%	1.3%	21.8%	15.2%	11.5%	31.4%	5.1%
1.00-1.99 Years	6.9%	3.0%	16.6%	13.3%	42.8%	29.7%	37.6%	51.0%	14.2%
2.00-2.99 Years	10.0%	4.1%	18.6%	18.4%	16.7%	20.1%	12.2%	5.9%	13.8%
3.00-3.99 Years	7.2%	3.3%	14.6%	15.3%	9.6%	13.8%	7.8%	7.8%	10.4%
4.00-4.99 Years	10.1%	6.7%	11.8%	21.5%	4.2%	8.1%	8.4%	2.0%	11.3%
5.00-5.99 Years	7.1%	3.5%	14.4%	9.5%	1.5%	3.3%	6.0%	2.0%	8.2%
6.00-6.99 Years	7.3%	4.9%	5.6%	5.5%	1.0%	3.7%	3.1%	0.0%	5.7%
7.00-7.99 Years	3.3%	1.5%	3.4%	5.5%	0.4%	1.2%	3.0%	0.0%	3.1%
8.00-8.99 Years	6.9%	12.7%	3.4%	2.6%	1.1%	2.9%	1.8%	0.0%	5.3%
9.00-9.99 Years	3.0%	4.1%	1.7%	1.6%	0.0%	0.4%	1.2%	0.0%	2.2%
10.00-10.99 Years	3.5%	2.9%	1.3%	1.4%	0.3%	0.8%	1.2%	0.0%	2.2%
11.00-11.99 Years	2.1%	2.1%	0.6%	0.9%	0.1%	0.1%	1.2%	0.0%	1.3%
12.00-12.99 Years	2.7%	4.6%	0.4%	0.6%	0.0%	0.1%	0.9%	0.0%	1.7%
13.00-13.99 Years	1.9%	1.7%	0.3%	1.1%	0.0%	0.0%	0.6%	0.0%	1.1%
12.00-14.99 Years	1.2%	2.5%	0.2%	0.2%	0.0%	0.0%	0.6%	0.0%	0.8%
15.00-15.99 Years	2.3%	0.8%	0.2%	0.3%	0.0%	0.0%	0.1%	0.0%	1.0%
16.00-16.99 Years	1.1%	5.8%	0.2%	0.1%	0.0%	0.0%	0.3%	0.0%	1.0%
17.00-17.99 Years	1.5%	1.2%	0.1%	0.1%	0.0%	0.0%	0.1%	0.0%	0.7%
18.00-18.99 Years	1.0%	0.7%	0.0%	0.2%	0.0%	0.0%	0.3%	0.0%	0.5%
19.00-19.99 Years	1.6%	5.6%	0.1%	0.1%	0.0%	0.0%	0.0%	0.0%	1.2%
20+ Years	16.8%	27.7%	0.7%	0.6%	0.3%	0.4%	2.1%	0.0%	9.3%
<b>Grand Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
5+ Years	63.5%	82.3%	32.6%	30.2%	4.9%	13.0%	22.5%	2.0%	45.2%
10+ Years	35.8%	55.6%	4.1%	5.6%	0.8%	1.6%	7.5%	0.0%	20.8%
Life Sentence	8.5%	3.6%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	3.5%
Death Sentence	0.9%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%

**Figure 7: Median Time-to-be-Served in Years by Most Serious Current Offense Category**

Tables 2 and 3 provide some other interesting perspectives on the prison population. Consider, for instance, the population of inmates with TTBS less than one year (2,076 =5.1%). While it is generally believed that a good share of this group consists of DUI inmates serving the mandatory minimum term of 4-8 months, in reality that number is relatively small (334). Although approximately 1,200-1,300 such inmates are admitted to the department in a year, these inmates turn over very rapidly due to the short length of stay, and tend not to accumulate. In fact, only about one-quarter of inmates committed with the mandatory flat term are present in the population at any given time. Primarily because of this, fewer DUI inmates, 432=15.2%, are serving sentences under one year than is the case for drug possession (559=21.8%).

Table 4 shows the median TTBS broken out by the most serious current offense. As expected, most of the offenses with the longest terms are violent and sex offenses. Of the 31 offenses with a median TTBS at or exceeding the overall median of 4.28 years, 23 or 74.2% are violent or sex offenses. Of the remaining 54 offenses, 16 or 29.6% are violent or sex offenses. Seven (7) of the nine (9) sex offenses listed have a median TTBS exceeding 8 years.

**Table 4: Median Total Time-to-be-Served by Most Serious Current Offense\***

<b>Most Serious Current Offense</b>	<b>Inmates</b>	<b>Median Time-to-be-Served</b>
First Degree Murder	1,356	Life
Second Degree Murder	1,210	18.99
Dangerous or Deadly Assault by Prisoner or Juvenile	48	15.36
Sexual Conduct with a Minor	1,362	14.75
Continuous Sexual Abuse of a Child	33	14.74
Sexual Assault	442	13.74
Molestation of a Child	1,452	13.74
Manslaughter	775	9.77
Sexual Exploitation of a Minor	213	9.75
Prisoners who Commit Assault with Intent to Incite to Riot or Participate in Riot	24	9.04
Burglary in the First Degree	475	8.80
Drive by Shooting	230	8.79
Kidnapping	970	8.79
Child Prostitution	33	8.36
Luring a Minor for Sexual Exploitation	23	8.36
Armed Robbery	2,767	8.12
Involving or Using Minors in Drug Offenses	26	7.74
Discharging a Firearm at a Structure	88	6.28
Arson of an Occupied Structure	69	6.00
Participating in or Assisting a Criminal Syndicate	88	5.86
Fraudulent Schemes and Artifices	452	5.78
Promoting Prison Contraband	209	5.05
Negligent Homicide	71	4.66
Theft of Means of Transportation	2,676	4.60
Child or Vulnerable Adult Abuse	220	4.58
Aggravated Taking of Identity of Another Person or Entity	178	4.50
Conducting a Chop Shop	35	4.37
Trafficking in Stolen Property	730	4.32
Aggravated Assault	4,017	4.29
Trafficking in Dangerous Drugs	2,412	4.29
Sexual Abuse	153	4.28

**Table 4: Total Time-to-be-Served by Most Serious Current Offense (continued)\***

<b>Most Serious Current Offense</b>	<b>Inmates</b>	<b>Median Time-to-be-Served</b>
Trafficking in the Identity of Another Person or Entity	66	4.11
Burglary in the Second Degree	1,339	4.08
Trafficking in Narcotic Drugs	2,069	4.07
Illegal Control of or Illegally Conducting an Enterprise	46	3.75
Failure to Stop: Accidents Involving Death or Personal Injuries	41	3.65
Aggravated Robbery	203	3.43
Burglary in the Third Degree	1,051	3.22
Participating in or Assisting a Criminal Street Gang	28	3.00
Taking or Knowingly Accepting Identity of Another Person or Entity	251	3.00
Stalking	22	2.90
Money Laundering	28	2.89
Misconduct Involving Weapons	1,361	2.80
Robbery	299	2.79
Theft	806	2.79
Trafficking in Marijuana	1,477	2.57
Threatening or Intimidating	28	2.39
Forgery	884	2.37
Shoplifting	155	2.36
DUI	2,834	2.15
Sex Offender Registration Violation	286	2.14
Theft by Extortion	13	2.04
Possession of Dangerous Drugs	1,199	1.93
Possession of Narcotic Drugs	708	1.93
Use of Wire Communication or Electronic Communication in Drug Related Transactions	16	1.93
Arson of a Structure or Property	15	1.93
Unlawful Discharge of Firearms	14	1.83
Escape in the Second Degree	88	1.61
Unlawful Flight from Pursuing Law Enforcement Vehicle	201	1.51
Failure to Appear in the First Degree	15	1.42
Aggravated Domestic Violence	118	1.31
Unlawful Use of Means of Transportation	207	1.30
Aggravated Harassment	23	1.29
Smuggling	28	1.18
Unlawful Imprisonment	14	1.17
Criminal Damage	68	1.11
Theft of a Credit Card or Obtaining a Credit Card by Fraudulent Means	78	1.10
Resisting Arrest	73	1.08
Prostitution	21	1.08
Disorderly Conduct (Reckless Use of Weapon)	85	1.07
Hindering Prosecution in the First Degree	20	0.95
Criminal Trespass in the First Degree	93	0.89
Endangerment	109	0.86
Criminal Impersonation	35	0.71
Possession of Burglary Tools	79	0.71
Criminal Simulation	10	0.65
Possession of Marijuana	190	0.65
Possession, Manufacture, Delivery and Advertisement of Drug Paraphernalia	458	0.65
Criminal Possession of a Forgery Device	67	0.64

\*Only new code offenses with counts of ten or more are included

Two of the major determinants of TTBS are the felony class of the offense and the applicability of a sentencing enhancement statute such as A.R.S. §13-703: Repetitive Offenders, A.R.S. §13-

704: Dangerous Offenders, and §13-705: Dangerous Crimes against Children. Tables 5 and 6, which apply only to new code inmates serving a term of years, show how these factors work together to determine the sentence imposed by the court. In this case, the sentence is the total sentence imposed by the court rather than the time the inmate will serve. Average sentence length is calculated as the mean rather than the median, which explains in part why the overall average (6.65 years) is greater than before (4.28 years). The other reason the mean sentence is greater than the median TTBS is that the latter does not include good time credits.

**Table 5: Sentencing Enhancement Category by Felony Class-Most Serious Current Offense\***

Sentence Enhancement Category	Felony Class-Most Serious Current Offense*						Grand
	1	2	3	4	5	6	Total
<b>A.R.S. §13-703/704/705</b>							
Dangerous/Repetitive 2	6	116	48	16	2	2	190
Dangerous/Repetitive 1	7	109	52	18	2	4	192
Dangerous/Non-Repetitive	687	3,053	1,680	120	10	57	5,607
Non-Dangerous/Repetitive 2	0	363	246	504	53	47	1,213
Non-Dangerous/Repetitive 1	7	1,141	2,696	3,089	311	259	7,503
Non-Dangerous/Non-Repetitive	258	5,061	6,624	6,919	937	1,906	21,705
Dangerous Crime against Children	35	1,593	766	11	1	1	2,407
<b>Grand Total</b>	<b>1,000</b>	<b>11,436</b>	<b>12,112</b>	<b>10,677</b>	<b>1,316</b>	<b>2,276</b>	<b>38,817</b>

\*The most serious current offense is selected as the offense with the longest sentence

**Table 6: Average Sentence Length by Sentencing Enhancement Category and Felony Class**

Sentence Enhancement Category	Felony Class-Most Serious Current Offense						All
	1	2	3	4	5	6	Offenses
<b>A.R.S. §13-703/704/705</b>							
Dangerous/Repetitive 2	17.42	23.23	14.40	8.59	5.00	3.75	19.19
Dangerous/Repetitive 1	21.29	17.70	10.57	5.26	3.25	3.88	14.30
Dangerous/Non-Repetitive	17.95	12.14	8.22	5.66	4.28	2.77	11.43
Non-Dangerous/Repetitive 2	-	18.74	12.54	9.17	5.00	3.71	12.32
Non-Dangerous/Repetitive 1	16.07	10.19	7.06	4.85	2.62	2.16	6.28
Non-Dangerous/Non-Repetitive	18.20	6.37	4.46	2.51	1.64	1.08	4.03
Dangerous Crime against Children	21.63	18.99	9.13	7.91	2.50	2.25	15.83
<b>Grand Total</b>	<b>18.15</b>	<b>10.72</b>	<b>6.09</b>	<b>3.55</b>	<b>2.03</b>	<b>1.31</b>	<b>6.65</b>

Average sentences for Non-Dangerous/Non-Repetitive Offenders convicted of Class 4, 5 and 6 felonies are slightly above the presumptives of 2.5, 1.5 and 1.0 years. In the case of Class 1, 2 and 3 felonies, average sentences are well above the presumptives of 16.0, 5.0 and 3.5 years. The average sentence is also above the presumptive in most cases of Dangerous and Repetitive Offenders. The average sentence for Dangerous Crimes against Children (15.83 years) is slightly below the presumptive of 17.0 years for first degree offenses involving molestation of a child. *Remember that sentences for inmates in custody generally exceed those handed out by the court during any given time frame, due to the rapid turnover of shorter sentence inmates.*

As indicated in Table 2, 128 inmates received a sentence of death. All 128 were sentenced for first degree murder, and all but three were sentenced for crimes committed since the new

criminal code took effect in 1978. Inmates serving life sentences total 1,419. Most lifers (1,100=77.5%) are committed for first degree murder. Of the remaining 319, most were committed for sexual conduct with a minor (78), child molestation (42), armed robbery (40), second degree murder (37), kidnapping (29), sexual assault/rape (23), aggravated assault (21), burglary in the first degree (14), or dangerous or deadly assault by prisoner or juvenile (12). Just eleven inmates received life sentences for non-violent crimes. Most cases of a life sentence imposed for a crime other than first degree murder may be explained by the applicability of A.R.S. §13-705: Dangerous Crimes against Children, A.R.S. §13-708: Offenses Committed while Released from Confinement, or A.R.S. §13-3410: Serious Drug Offender.

Note also that life and death sentences are not reflected in Tables 5 and 6 due to the fact that no definite sentence length may be associated with the offense except for a minimum of 25 or 35 years applicable in some cases. Definite sentences are necessary in order to calculate an average or mean. It is not presumed that lifers will be released at their earliest release eligibility due to fact that release is not automatic as is the case with terms of years under Truth-in-Sentencing. However, in the case of Tables 2, 3 and 4, life and death sentences are included because they lie at the high end of the distribution and do not impact the median TTBS.

Table 7 below shows the custody levels assigned to inmates in each of the three sentence type categories. All death-sentenced inmates occupy maximum custody beds at the Eyman prison complex in Florence (126 males) or at the Perryville prison complex (2 females). While all death-sentenced inmates are assigned to maximum custody, the same cannot be said for lifers. Although no lifers may occupy minimum custody beds per department policy, more than half (809=57.0%) are currently classified to medium custody. Of those serving a term of years, just 5,921=15.2% are assigned to close or maximum custody.

**Table 7: Custody Level by Sentence Type**

<b>Custody Level*</b>	<b>Type of Sentence</b>			<b>Grand Total</b>
	<b>Death Sentence</b>	<b>Life Sentence</b>	<b>Term of Years</b>	
Maximum	128	272	2,211	2,611
Close	0	338	3,710	4,048
Medium	0	809	15,698	16,507
Minimum	0	0	17,265	17,265
<b>Grand Total</b>	<b>128</b>	<b>1,419</b>	<b>38,884</b>	<b>40,431</b>

\*Custody level assigned by the inmate classification system

Table 8 breaks out each of the eight (8) offense categories by custody level. Most evident is the fact that sex offenders are almost all classified to medium custody. Violent offenders, on the other hand, are pretty well spread out across the four custody levels. Almost two-thirds (63.3%) of inmates committed for non-violent crimes are assigned to minimum custody, with most of the rest assigned to medium custody.

The inmate classification system was revised in 2005 to accommodate changing custody requirements. The current system incorporates the following factors: most serious current



offense, most serious prior/other offense, escape history, history of institutional violence, gang affiliation status, current age, and completion of major inmate programs. One of the primary objectives of the system is to keep the most dangerous and disruptive inmates in more secure beds. This naturally includes some inmates committed for less serious crimes. Typically, inmates are re-classified to higher custody beds as the result of serious disciplinary violations.

**Table 8: Custody Level by Most Serious Current Offense Category**

<b>Most Serious Current Offense Category</b>	<b>Custody Level</b>				<b>Grand Total</b>
	<b>Minimum</b>	<b>Medium</b>	<b>Close</b>	<b>Maximum</b>	
Violent Offense	3,641	6,938	2,464	1,810	14,853
Sex Offense	0	3,706	225	116	4,047
Property Offense	5,237	2,921	807	443	9,408
Drug Trafficking	4,129	1,513	257	106	6,005
Drug Possession	1,657	716	131	59	2,563
DUI	2,297	447	71	19	2,834
Escape or Related Offense	275	248	91	56	670
Public Order/Morals Offense	29	18	2	2	51
<b>Grand Total</b>	<b>17,265</b>	<b>16,507</b>	<b>4,048</b>	<b>2,611</b>	<b>40,431</b>

<b>Most Serious Current Offense Category</b>	<b>Custody Level</b>				<b>Grand Total</b>
	<b>Minimum</b>	<b>Medium</b>	<b>Close</b>	<b>Maximum</b>	
Violent Offense	24.5%	46.7%	16.6%	12.2%	100.0%
Sex Offense	0.0%	91.6%	5.6%	2.9%	100.0%
Property Offense	55.7%	31.0%	8.6%	4.7%	100.0%
Drug Trafficking	68.8%	25.2%	4.3%	1.8%	100.0%
Drug Possession	64.7%	27.9%	5.1%	2.3%	100.0%
DUI	81.1%	15.8%	2.5%	0.7%	100.0%
Escape or Related Offense	41.0%	37.0%	13.6%	8.4%	100.0%
Public Order/Morals Offense	56.9%	35.3%	3.9%	3.9%	100.0%
<b>Grand Total</b>	<b>42.7%</b>	<b>40.8%</b>	<b>10.0%</b>	<b>6.5%</b>	<b>100.0%</b>

Table 9 below indicates the type of the inmate's most recent commitment to the department broken out by felony class. By far the largest commitment category is direct court commitment, i.e., a direct sentence to the department without a prior period of probation (26,626=73.3%). The second largest category is probation revocation resulting from a new felony conviction (6,041=14.9%), with the third largest being revocation of probation for a technical violation (3,780=9.3%). Note that cases in which new charges are dropped or dismissed in exchange for a plea to a technical violation are included in the technical violation category. The next to last category includes inmates who have violated the terms of their release from ADC custody and have returned with a new felony conviction (650=1.6%).

**Table 9: Type of Court Commitment by Felony Class of the Most Serious Current Offense**

Type of Court Commitment	Felony Class						Grand Total	
	1	2	3	4	5	6	#	%
Direct Court Commitment	2,139	9,979	8,737	6,628	888	1,255	29,626	73.3%
Probation Revocation-New Offense*	139	1,540	2,018	1,975	190	179	6,041	14.9%
Probation Revocation-Technical Violation*		556	1,200	1,211	145	668	3,780	9.3%
Parole Revocation-New Offense*	11	148	208	214	35	34	650	1.6%
Commitment as a Condition of Probation				334			334	0.8%
<b>Grand Total</b>	<b>2,289</b>	<b>12,223</b>	<b>12,163</b>	<b>10,362</b>	<b>1,258</b>	<b>2,136</b>	<b>40,431</b>	<b>100.0%</b>

\*Limited to new offenses resulting in felony convictions; “parole” refers to post-release supervision under ADC jurisdiction

The last category is commitment as a condition of probation (334=0.8%). In this case, the offender is sentenced to probation, but is required to serve a short term of 4 to 8 months in the department as a condition of probation. This presently happens only in the case of felony DUI offenders. It should be noted that inmates with the short flat term sentence constitute just 11.8% (about 1 in 12) of the total of 2,834 DUI inmates in custody. This is the case because these inmates turn over very rapidly due to the short length of the term, and tend not to accumulate in the population.

Table 9 applies to the most recent commitment to the department, but may not provide the reason for the inmate’s most recent admission to custody. While the vast majority of inmates (96.7%) are committed by the court as their most recent admission, some are admitted without court involvement. These include technical parole violators (1,020=2.5%), inmates returned from escape (34=0.1%), inmates returned from out-of-state placement (128=0.3%), and foreign nationals returned from deportation at ½ the sentence (164=0.4%). These categories will prove useful at a later stage of the report, where we will be attempting to determine why non-violent first offenders occupy prison beds.

This concludes our preliminary profile of the inmate population. In the next chapter, we begin to probe more deeply into the past histories of Arizona inmates. One of our primary goals will be to determine how many inmates are non-violent first offenders. However, to get to that point, we will first have to determine how many have a history of felony violence. In the next chapter, we will focus on that issue.

## Chapter 4: A History of Violence

As previously discussed, the general approach to be used in this report is to categorize the inmate population into clearly defined groups that may be judged individually as to the threat posed to society by the members of the group. However, the analysis really serves a much broader purpose. It provides the first-of-its-kind analysis of the inmate population from top to bottom, from the most serious categories of inmates to the least serious. In attempting to judge seriousness, or public risk, one is the most concerned with the types of crimes for which inmates have been convicted, either in the past or the present. First and foremost, one must take cognizance of the inmate's history of felony-level violence, including sex offenses. These are the crimes that are of the most concern to the general public and to criminal justice officials alike because of the degree of personal victimization generally involved. While there are exceptions, violent and sex offenses typically result in longer sentences than do other offenses.

In looking at the general issue of violence and sex crime, one naturally begins with current committing offenses. It is appropriate to ask how many inmates are currently committed for a violent or sex crime. From Chapter 3, we know that 18,900=46.7% of inmates are committed for a violent or sex offense as their most serious current offense. However, this does not take into account lesser included offenses. For instance, an inmate might be sentenced to five years for Theft, Class 3 and 2 years for Aggravated Assault, Class 4. Based on either the length of the sentence or felony class, or both, the most serious offense is theft. However, this obviously discounts the violence involved in the aggravated assault.

In addition, ADC classifies offenders as to their current or prior "sex offender status." This includes the identification of offenders with a "sexual involvement" in the crime not reflected by an actual sex offense conviction. This happens quite often in the case of violent offenses such as murder or kidnapping, but may arise in conjunction with a typically non-violent offense as well.

Beyond lesser included offenses and sexual involvement in convicting offenses, there are a variety of indicators in the ADC database that identify elements of dangerousness or violence that again may not be explicitly reflected in the offense of conviction. Specifically, ADC records incorporate indicators for each committing offense, past or present, of the applicability to the offense of any of the following:

### Indicators of Dangerousness or Violence

- A.R.S. §13-704: Dangerous Offenders
- A.R.S. §13-705: Dangerous Crimes against Children
- A.R.S. §13-901.03: Violent Crimes
- Use of a weapon
- Injury to a victim

For study purposes, an inmate was considered to be committed for a violent offense if any of above-listed indicators of violence was present and applicable to one or more current offenses. Likewise, any inmate with at most a “sexual involvement” in current offenses was considered to be committed for a “sex-related” offense. With these conventions in place, we were able to identify a total of 21,273 inmates or 52.6% of the population as being currently committed for one or more violent, sex or sex-related offenses. The following identifies the sequence in which the various indicators of violence or sexual involvement were incorporated, as well as the number of additional inmates classified as violent or sex offenders as a result of each indicator.

#### Violent and Sex Offender Identification Sequence

- 1) A statutory violent or sex offense is the most serious current offense (18,900=46.7%)
- 2) A statutory violent or sex offense is a lesser included offense (1,720=4.3%)
- 3) A current offense is “sex-related” (64=0.2%)
- 4) A current offense was prosecuted as a dangerous offense (107), a dangerous crime against children (10), or a violent offense (4) (113=0.3%)
- 5) ADC records indicate injury to a victim or the use of a weapon (485=1.2%)

Overall, 2,373 inmates or 5.9% of the population were classified as violent or sex offenders based on information beyond the category of the most serious current offense. The majority of these inmates (72.5%) were classified as violent or sex offenders based on lesser included offenses. In addition to determining the simple fact of a current violent or sex offense with the expanded definition, we were able to isolate composite categories such as current commitment for both violent and sex offenses. Table 10 below breaks out these composite categories by the felony class of the most serious current committing offense.

**Table 10: Current Violent or Sex/Sex-Related Offense by Felony Class**

Current Violent and/or Sex/Sex-Related Offense	Felony Class-Most Serious Current Offense						Grand Total	% of Total
	1	2	3	4	5	6		
Violent Offense Only	2,151	6,188	4,324	2,751	376	585	16,375	40.5%
Sex Offense Only	0	1,539	1,395	293	43	40	3,310	8.2%
Both Violent Offense & Sex Offense	101	966	283	33	11	4	1,398	3.5%
Both Violent Offense & Sex-Related Offense	37	76	31	12	2	9	167	0.4%
Sex-Related Offense Only	0	2	8	7	0	6	23	0.1%
No Violent or Sex/Sex-Related Offense	0	3,452	6,122	7,266	826	1,492	19,158	47.4%
<b>Grand Total</b>	<b>2,289</b>	<b>12,223</b>	<b>12,163</b>	<b>10,362</b>	<b>1,258</b>	<b>2,136</b>	<b>40,431</b>	<b>100.0%</b>
Total Violent or Sex/Sex-Related	2,289	8,771	6,041	3,096	432	644	21,273	52.6%
% Violent or Sex/Sex-Related	100.0%	71.8%	49.7%	29.9%	34.3%	30.1%	52.6%	-

Of the 21,273 inmates currently committed for a violent or sex offense according to criteria 1-5, 17,940 or 84.3% were committed for at least one violent offense and 4,898 or 23.0% for at least one sex or sex-related offense. The vast majority (17,901 or 80.4%) of inmates committed for violent or sex/sex-related offenses are Class 1, 2 or 3 felons. Table 11 below identifies the statutory description and felony class of the most serious current violent or sex offense where an A.R.S. description is available, i.e., in the 20,620 cases where criteria 1 or 2 was applicable. The table also includes the 653 inmates classified as violent or sex offenders based on criteria 3-5.

**Table 11: Most Serious Current Violent or Sex Offense**

<b>Most Serious Current Violent or Sex Offense</b>	<b>Felony Class-Most Serious Current Offense</b>						<b>Grand Total</b>	<b>% of Total</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>		
Aggravated Assault		495	2,894	373	190	470	4,422	20.8%
Armed Robbery		2,538	227	7			2,772	13.0%
Misconduct Involving Weapons		3	4	1,943	32	57	2,039	9.6%
Molestation of a Child		785	665	1		1	1,452	6.8%
Sexual Conduct with a Minor		768	573	3	1	28	1,373	6.5%
First Degree Murder	1,175	171	11		1		1,358	6.4%
Second Degree Murder	1,036	171	2	1			1,210	5.7%
Kidnapping		889	74	14	1		978	4.6%
Manslaughter		746	29			1	776	3.6%
Burglary in the First Degree		408	67	7			482	2.3%
Sexual Assault		361	82				443	2.1%
Robbery				313	41	5	359	1.7%
Endangerment					2	332	334	1.6%
Sex Offender Registration Violation			1	283	17	10	311	1.5%
Child or Vulnerable Adult Abuse		65	68	76	30	34	273	1.3%
Drive By Shooting		220	9		1		230	1.1%
Sexual Exploitation of a Minor		123	92				215	1.0%
Aggravated Robbery			177	26	1	10	214	1.0%
Sexual Abuse		3	122	16	15	5	161	0.8%
Disorderly Conduct (Reckless Use of Weapon)						152	152	0.7%
Aggravated Domestic Violence				1	121	21	143	0.7%
Participating in or Assisting a Criminal Syndicate		44	45	6	2		97	0.5%
Discharging a Firearm at a Structure		71	18			3	92	0.4%
Negligent Homicide				75			75	0.4%
Murder (Old Code)	72	3					75	0.4%
Arson of an Occupied Structure		58	9	3			70	0.3%
Dangerous or Deadly Assault by Prisoner	6	32	10				48	0.2%
Aggravated Harassment					8	32	40	0.2%
Continuous Sexual Abuse of a Child		21	13				34	0.2%
Child Prostitution		17	15				32	0.2%
Threatening or Intimidating			17	7		7	31	0.1%
Unlawful Discharge of Firearms		3	1			27	31	0.1%
Participating in or Assisting a Criminal Street Gang		10	18			1	29	0.1%
Stalking			12	3	12		27	0.1%
Unlawful Imprisonment						25	25	0.1%
Prisoners who Commit Assault with Intent to Riot		16	8				24	0.1%
Luring a Minor for Sexual Exploitation			20	2		1	23	0.1%
Destruction of or Injury to Public Jail					17	1	18	0.1%
Rape (Old Code)		18					18	0.1%
Arson of a Structure or Property				14	3		17	0.1%
Theft by Extortion		6	1	5	2		14	0.1%
Custodial Interference			5	2		3	10	0.0%
Public Sexual Indecency to a Minor					8	1	9	0.0%
Domestic Violence				1	7	1	9	0.0%
Riot					2	6	8	0.0%
Prisoner Assault with Bodily Fluids						7	7	0.0%
Indecent Exposure to a Person under 15						7	7	0.0%
Other Violent or Sex Offense		18	2	23	4	6	53	0.2%
Violent or Sex Offender Indicator (Items 3-5)		97	256	238	31	31	653	3.1%
<b>Grand Total</b>	<b>2,289</b>	<b>8,160</b>	<b>5,547</b>	<b>3,443</b>	<b>549</b>	<b>1,285</b>	<b>21,273</b>	<b>100.0%</b>

As indicated, aggravated assault is the most frequent current violent or sex offense, accounting for 20.8% of the total of 21,273 current violent and sex offenders. Armed robbery (13.0%), misconduct involving weapons (9.6%), molestation of a child (6.8%), sexual conduct with a minor (6.5%), first degree murder (6.4%), second degree murder (5.7%), kidnapping (4.6%), manslaughter (3.6%), burglary in the first degree (2.3%), and sexual assault (2.1%) follow. Taken together, these eleven offenses account for 17,305 or 81.3% of current violent and sex offenders and 42.8% of the total prison population. Just 3.1% of current violent and sex offenders were identified as such by means of an application of criteria 3-5. Most of the latter are convicted of Class 2-4 felonies (90.5%).

It may be noted that the distribution of felony class is different in Tables 10 and 11. This is because the felony class in Table 10 is the highest among all current offenses, while the felony class in Table 11 is the highest among all current violent and sex offenses only. As a result, the offense listed in Table 11 is occasionally of a lower felony class than that listed for the inmate in Table 10. For instance, about half (641) of the 1,285 inmates with a Class 6 felony as the most serious current violent or sex offense are actually higher class felons when non-violent crimes are taken into account (Table 10). Of the two tables, Table 11 provides a more accurate picture of the most serious current violent or sex offense, while Table 10 provides a more complete description of the inmate and all of his or her current offenses. In any case, taken together, Tables 10 and 11 provide a relatively complete picture of the crimes for which current violent and sex offenders are committed to the department.

#### Summary on Current Violent and Sex Offenses

- 17,940=44.4% of inmates are currently committed for at least one violent offense
- 4,898=12.1% of inmates are currently committed for at least one sex offense
- 21,273=52.6% of inmates are currently committed for at least one violent or sex offense
- 15,996=39.6% of inmates are currently committed for a Class 1, 2 or 3 violent or sex offense
- 5,277=13.0% of inmates are currently committed for a Class 4, 5 or 6 violent or sex offense

### Prior Felony Violence

From the screening accomplished so far, 21,273=52.6% of Arizona inmates have been identified as being currently committed for one or more violent or sex offenses according to the expanded definition developed in this chapter. However, this obviously does not take into account prior offenses of the same type. To obtain a more comprehensive measure of inmates' histories of violence and sex crime, prior offenses for which information was available were screened in the same manner as before, using criteria 1-5. These offenses included prior offenses for which the offender had been committed to the department as well as the most serious prior felony as identified by the inmate classification system. Classification staff record a statutory designation for the most serious prior juvenile or adult felony in cases where one may be identified from the inmate's criminal history. This information was also screened for the presence of violent or sex offenses. *As a result of this screening, a total of 11,608 or 28.7% of inmates were identified as having a prior history of one or more felony violent or sex offenses.*

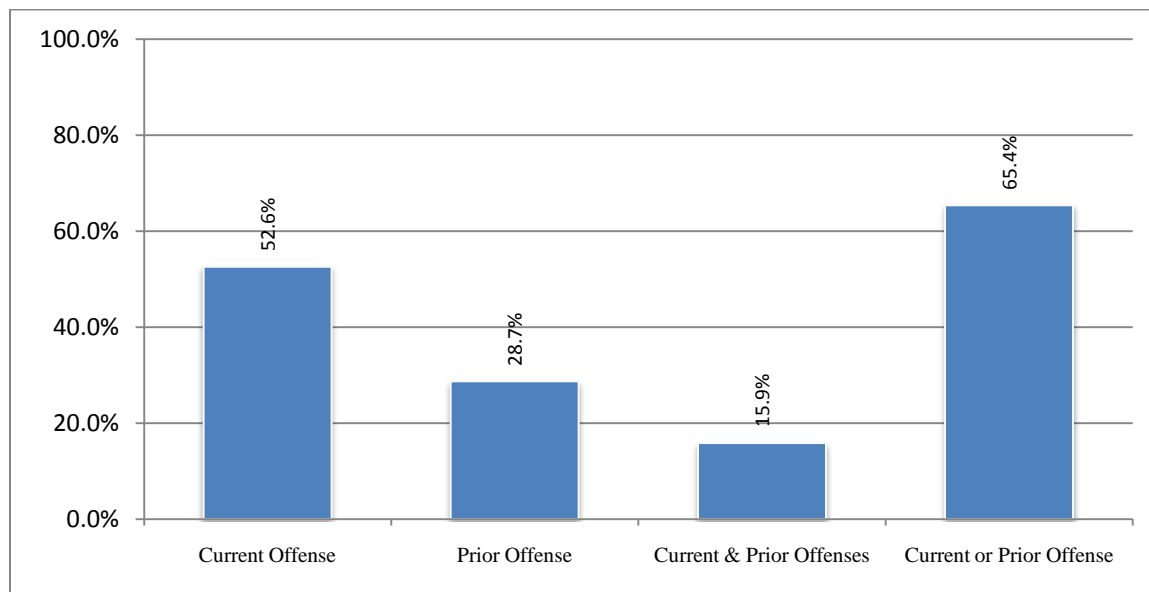
The question then remains as to how many inmates have a current or prior history of violence or sex crime. Since there is a degree of overlap between the two groups, it is necessary to look at all four logically possible combinations of current and prior offenses, i.e., to determine how many inmates have no history of either type, how many have a history of one type but not the other, and how many have a history of both types. Table 12 below accomplishes this by showing the number and percentage of inmates who have any particular combination of current violent or sex offenses and prior violent or sex offenses.

**Table 12: Current and Prior History of Violent or Sex Offenses**

<b>Current/Prior History of Violent or Sex Offenses</b>	<b>Inmates</b>	<b>% Total</b>
<u>No Current Violent or Sex Offense</u>	<u>19,158</u>	<u>47.4%</u>
No Prior Violent or Sex Offense	13,974	34.6%
Prior Violent or Sex Offense	5,184	12.8%
<u>Current Violent or Sex Offense</u>	<u>21,273</u>	<u>52.6%</u>
No Prior Violent or Sex Offense	14,849	36.7%
Prior Violent or Sex Offense	6,424	15.9%
<b>Grand Total</b>	<b>40,431</b>	<b>100.0%</b>
Total "Prior" Violent or Sex Offense	11,608	28.7%
Total "Current or Prior" Violent or Sex Offense	26,457	65.4%

As shown in the table, including priors in addition to current offenses increases the number of violent and sex offenders from 21,273 to 26,457 or 65.4% of the population. This increase is due to the 5,184 inmates (12.8% of the population) who have prior but no current violent or sex offenses. In addition, the table identifies the fact that 6,424 or 15.9% of inmates have both current and prior violent or sex offenses. This reflects the degree of overlap between the two groups as alluded to above. Figure 8 below provides a visual summary of what we know about the felony-level violent and sex offense histories of Arizona inmates.

**Figure 8: Summary of the Violent and Sex Offense Histories of Arizona Inmates**



With this additional screening for prior violence, we can now identify the fact that 13,974=34.6% of inmates have no current or prior history of felony-level violent or sex crimes. For convenience in terminology, we will henceforth refer to these inmates simply as “non-violent offenders” and their counterparts as “violent offenders.” Now that we’ve firmly established that about 35% of inmates are non-violent offenders, it is appropriate to look at the crimes for which these inmates are currently committed to the department. Table 13 initiates that process by unveiling the general category and felony class of the most serious current committing offense.

**Table 13: Most Serious Current Offense by Felony Class-Non-Violent Offenders**

Most Serious Current Offense Category*	Felony Class					Grand Total	
	2	3	4	5	6	#	%
Property Offense	548	2,989	1,760	271	525	6,093	43.6%
Drug Trafficking	2,092	1,542	593	17	28	4,272	30.6%
DUI			1,671	5	24	1,700	12.2%
Drug Possession			1,040	75	469	1,584	11.3%
Escape or Related Offense	52	37	6	160	43	298	2.1%
Public Order/Morals Offense			2	16	9	27	0.2%
<b>Grand Total</b>	<b>2,692</b>	<b>4,568</b>	<b>5,072</b>	<b>544</b>	<b>1,098</b>	<b>13,974</b>	<b>100.0%</b>
% of Total	19.3%	32.7%	36.3%	3.9%	7.9%	100.0%	-

\*Based on the current offense with the highest felony class

As might be expected, almost half (43.6%) of non-violent offenders are in prison for property crimes. However, drug trafficking accounts for a good share of the rest (30.6%). Taken together, drug possession and DUI account for just 23.5% of the non-violent population. Most non-violent offenders are imprisoned for Class 2-4 felonies (12,332=88.2%). The least serious categories of committing offenses, non-violent Class 5 and 6 felonies, account for just 1,642 or 4.1% of the prison population; about 1 in every 25 inmates.



## Chapter 5: Criminal History

In the last chapter, we were able to determine that 11,608 or 28.7% of inmates have prior felony-level violent or sex offenses. That determination enabled us to classify 26,457=65.4% of inmates as having a current or prior history of felony violent or sex offenses. In this chapter, we expand our view to determine how many inmates have a prior felony record of any kind. This will eventually lead to a determination of the number of non-violent first offenders in custody, a major goal of the present research. In any case, prior criminal record provides an important dimension on which to measure the inmate population. Repeat offenders tend to be imprisoned more frequently by the courts than are first offenders, plus they often receive longer sentences, sometimes as a result of statutory sentencing enhancements. Recidivism studies conducted by the department and other agencies continue to demonstrate conclusively that repeat offenders record higher recidivism rates following release than do first offenders. For all of these reasons, it is important that we determine how many inmates have prior felony records and to understand the sources of criminal history data.

While misdemeanor records are of some importance, the primary focus of this study was on the prior “felony” records of inmates. We were concerned not only with the simple fact of a prior felony, but also with the number of prior felonies on record for the inmate. Furthermore, we decided to include both juvenile and adult felonies, as well as felonies committed in other states and jurisdictions. The goal was to obtain the most comprehensive view possible of the inmate’s felony criminal history. As was the case with violent and sex offenses, there are a number of indicators of prior felony record in the ADC database.<sup>1</sup> They are as follows:

### Felony Criminal History

- 1) Number of Prior Adult Felony Convictions
- 2) Number of Prior Adult Felony Probations
- 3) Number of Juvenile Felony Adjudications
- 4) Number of Juvenile Commitments
- 5) Number of Prior Felony Confinements
- 6) Number of Prior ADC Commitments
- 7) Number of Prior ADC Sentences
- 8) Prior Felony Conviction for a Sex or Sex-Related Offense
- 9) Probation or ADC Release Violation with a New Felony Conviction
- 10) Sentencing pursuant to A.R.S. §13-703: Repetitive Offenders
- 11) Sentencing pursuant to A.R.S. §13-708: Offense Committed while Released from Confinement
- 12) Most Serious Prior Felony from inmate classification
- 13) Post-Commitment Felony Conviction

***Based on a review of all thirteen categories, we arrive at the conclusion that 33,896 inmates or 83.8% of the inmate population have prior felonies of one type or another.***

---

<sup>1</sup> See the Appendix for more detail on criminal history sources.

With so many criminal history categories to work with, it is important to understand the contributions of individual categories. For each of the 13 criminal history categories, Table 14 below identifies:

1. The number of inmates with that category applicable
2. The percentage of all inmates (40,431) with that category applicable
3. The percentage of all inmates with priors (33,896) with that category applicable

**Table 14: Applicability of Criminal History Categories**

<b>Criminal History Category</b>	<b>Inmates with Category Applicable</b>	<b>% of Population with Category Applicable</b>	<b>% of Total Inmates with Priors</b>
Most Serious Prior Felony-Classification	27,511	68.0%	81.2%
Prior Adult Felony Conviction	23,681	58.6%	69.9%
Prior ADC Sentence	19,528	48.3%	57.6%
Prior ADC Commitment	17,947	44.4%	52.9%
Prior Adult Felony Probation	13,865	34.3%	40.9%
Repetitive Offender	11,901	29.4%	35.1%
Juvenile Felony Adjudication	8,848	21.9%	26.1%
Probation/ADC Release Violator-New Felony Conviction	6,691	16.6%	19.7%
Prior Felony Confinement	4,837	12.0%	14.3%
Juvenile Commitment	4,248	10.5%	12.5%
Prior Felony Conviction-Sex Offense	916	2.3%	2.7%
Post-Commitment Felony Conviction	647	1.6%	1.9%
Offense Committed while Released from Confinement	624	1.5%	1.8%
<b>Prior Felony-One or More of the Above Applicable</b>	<b>33,896</b>	<b>83.8%</b>	<b>100.0%</b>

Given the critical nature of this source, recognizing both juvenile and adult priors, it is not surprising that the item “Most Serious Prior Felony” from inmate classification ranks #1 among the 13 sources, classifying 68.0% of inmates as having prior felonies. This item also leads in being applicable to 81.2% of the 33,896 inmates with priors. The intake item Prior Adult Felony Conviction ranks #2, applying to 58.6% of inmates and accounting for 69.9% of inmates with priors. Prior ADC Sentence and Prior ADC Commitment, roughly equal in contribution, differ in that some inmates are sentenced on multiple occasions for different crimes before commitment to custody—in this case 1,581 inmates. Fewer inmates have prior adult felony probations (13,865) than have prior ADC commitments (17,947).

Finally, 29.4% of inmates and 35.1% of inmates with priors have been prosecuted pursuant to A.R.S. §13-703: Repetitive Offenders. This includes inmates prosecuted as such for either a current or a prior felony. It should be noted that not all inmates with prior adult felony convictions are eligible for sentencing under this statute due to the time frames associated with historical priors. Unless circumstances dictate otherwise, inmates may plead guilty with the agreement from the prosecutor that the allegation of historical priors will be dropped. This would account in part for the fact that only about half of inmates with prior adult felony convictions (23,681) have been successfully prosecuted as repetitive offenders (11,901).

Table 15 below reveals the number of sources of criminal history data that were applicable to any given inmate. While five (5) was the most frequent number of sources, as many as 5,291 inmates (15.6%) had a sole source for criminal history data.

**Table 15: Number of Criminal History Sources**

Number of Criminal History Sources	Inmates	
	#	%
1	5,291	15.6%
2	4,515	13.3%
3	4,431	13.1%
4	4,169	12.3%
5	5,583	16.5%
6	5,489	16.2%
7	3,223	9.5%
8	1,014	3.0%
9	162	0.5%
10	18	0.1%
11	1	0.0%
<b>Grand Total</b>	<b>33,896</b>	<b>100.0%</b>

Table 16 records which source was the sole source for the 5,291 inmates with a sole source. It reveals that Most Serious Prior Felony from inmate classification was most often the sole source, accounting for 45.8% of all sole source criminal histories. Despite the fact that this source was the sole source for so many inmates, just 8.8% of inmates with this source as a contributing source had this source as the sole source. A higher percentage of sole sources applied to the source Probation/ADC Release Violator-New Felony Conviction (10.0%). Due to its overlap with Prior ADC Sentence, Most Serious Prior Felony, and Prior Adult Felony Conviction, Prior ADC Commitment was the sole source in just 35 cases. These were cases where the inmate was recommitted to custody upon violation of a felony probation that was being served consecutive to the original prison sentence. In such a case, the felony probation was not counted as a prior.

**Table 16: Sole Sources of Criminal History**

Criminal History Category	Sole Source	% Sole Source	% Total
Most Serious Prior Felony-Classification	2,424	8.8%	45.8%
Prior Adult Felony Conviction	1,173	5.0%	22.2%
Probation/ADC Release Violator-New Felony Conviction	662	10.0%	12.5%
Juvenile Felony Adjudication	447	5.1%	8.4%
Prior ADC Sentence	222	1.1%	4.2%
Repetitive Offender	153	1.3%	2.9%
Prior Adult Felony Probation	84	0.6%	1.6%
Prior Felony Confinement	55	1.1%	1.0%
Prior ADC Commitment	35	0.2%	0.7%
Juvenile Commitment	22	0.5%	0.4%
Prior Felony Conviction-Sex Offense	12	1.3%	0.2%
Offense Committed while Released from Confinement	2	0.3%	0.0%
Post-Commitment Felony Conviction	0	0.0%	0.0%
<b>Grand Total</b>	<b>5,291</b>	<b>15.6%</b>	<b>100.0%</b>

Some of the sources turned out to be sole sources because of missing data from other sources. Intake items such as the number of prior adult felony convictions were occasionally coded as missing due to the lack of a presentence report or other original source document. Thus, it was important that backup sources were available, not only for this study, but also for departmental operations such as inmate classification.

For the record, information used to code items dealing with specific kinds of prior offenses, e.g., violent and sex offenses, was from ADC offense and classification data sources already counted as separate sources. Accordingly, this particular category of prior record information was not considered as a separate source in conjunction with the criminal history source analysis.

While several of the criminal history items provide actual numbers of priors, several do not. Nonetheless, it was deemed appropriate to perform a calculation of the number of prior felonies in any given inmate's record. Given the large number of sources of criminal history data, it was necessary to combine sources in various ways in order to arrive at some reasonable comprehensive measure of priors. This was accomplished by first calculating the number of prior adult felonies from the various sources of adult record information, then performing the same operation for juvenile felonies, and then adding the results of the two operations. Whenever overlapping categories could not be reconciled, the decision was made not to add. This would apply, for instance, in cases where the inmate was sentenced as a repetitive offender and also had a prior adult felony conviction. Appropriately so, in such cases, it was not assumed that the prior felony and the offense successfully alleged as a prior were different offenses.

Here, then, is the distribution of the number of prior felonies calculated as described above:

**Table 17: Number of Prior Felonies**

Number of Prior Felonies	Inmates	
	#	%
None	6,535	16.2%
One	11,257	27.8%
Two	5,738	14.2%
Three	4,435	11.0%
Four	3,417	8.5%
Five	2,566	6.3%
Six	1,813	4.5%
Seven	1,407	3.5%
Eight	964	2.4%
Nine	615	1.5%
Ten or More	1,684	4.2%
<b>Grand Total</b>	<b>40,431</b>	<b>100.0%</b>
Two or More	22,639	56.0%
Three or More	16,901	41.8%

Table 17 identifies 27.8% of inmates as having one prior felony, 56.0% as having two or more, and 41.8% as having three or more. Across the inmate population, the median number of prior felonies is two (2) and the average or mean is 2.96. Table 19 below breaks out the number of prior felonies by most serious current offense category, and is sorted by the % of inmates in the category who have two or more priors.

**Table 18: Number of Prior Felonies by Most Serious Current Offense Category**

Most Serious Current Offense Category	Number of Prior Felonies				Grand Total	Avg. #	% 1+	% 2+
	0	1	2	3+				
Drug Possession	127	513	407	1,516	2,563	3.84	95.0%	75.0%
Escape or Related Offense	31	152	101	386	670	3.92	95.4%	72.7%
Property Offense	472	2,412	1,416	5,108	9,408	3.74	95.0%	69.3%
Public Order/Morals Offense	8	8	8	27	51	3.61	84.3%	68.6%
DUI	310	986	578	960	2,834	2.44	89.1%	54.3%
Violent Offense	2,776	4,124	1,964	5,989	14,853	2.92	81.3%	53.5%
Drug Trafficking	1,533	1,651	779	2,042	6,005	2.36	74.5%	47.0%
Sex Offense	1,278	1,411	485	873	4,047	1.80	68.4%	33.6%
<b>Grand Total</b>	<b>6,535</b>	<b>11,257</b>	<b>5,738</b>	<b>16,901</b>	<b>40,431</b>	<b>2.96</b>	<b>83.8%</b>	<b>56.0%</b>
% of Total	16.2%	27.8%	14.2%	41.8%	100.0%	-	-	-

From Table 18, we can see that the percentage of inmates with two or more priors (56.0%) ranges from 33.6% for sex offenses to 75.0% for drug possession. DUI inmates fall about halfway between at 54.3%. Average priors are the lowest for sex offenders (1.80), drug traffickers (2.36), and DUI inmates (2.44); and are the highest for inmates committed for escape and related offenses (3.92). The high frequency of multiple priors for inmates committed for drug possession explains, at least in part, why these inmates are occupying prison beds. It is because of their repetitive criminal behavior rather than the severity of the offense.

Table 19 provides a look at the frequency of prior felonies broken out for individual offenses. The table is sorted by the weighted average of priors assuming a maximum of three per inmate. This negates the effect that a large number of priors can have on the average. From an examination of the table, it is clear that inmates with the most priors tend to be committed either for less serious offenses, e.g., possession of narcotic drugs, prostitution, shoplifting, and resisting arrest, or for offenses normally committed while the inmate is in custody, such as promoting prison contraband and dangerous or deadly assault by prisoner or juvenile. Obviously, offenders who commit less serious crimes receive lesser penalties and thus have more opportunities to accumulate priors. However, it is also a fact that the less serious the crime, the less the likelihood of being committed to prison. Accordingly, those among less serious offenders who are committed tend to be the ones with the worst criminal histories.

Among high volume offenses, theft of means of transportation ranks the highest on criminal history, with burglary in the third degree not far behind. *Notably, those who traffic in marijuana have lesser criminal histories than those who traffic in narcotics or dangerous drugs.* Most sex offenses are near the bottom of the list, with continuous sexual abuse of a child showing the lowest frequency of priors. Sex offenders tend to have lesser criminal histories for several reasons. For one, they tend to specialize in that type of crime. Relatively few sex offenders are involved with drugs or property crime, and most do not show a tendency to violence such as aggravated assault. Also, sex offenders tend to be older than inmates committed for other types of crime and tend to receive longer sentences. This translates into less opportunity to accumulate priors. Finally, it is generally believed that many sex offenses go unreported, or at least are less often reported than other serious crimes. This translates into lower recidivism rates and shorter criminal histories.

**Table 19: Frequency of Priors by Most Serious Current Committing Offense**

<b>Most Serious Current Committing Offense</b>	<b>Inmates</b>	<b>Number of Priors</b>			<b>Weighted Average*</b>
		<b>1+</b>	<b>2+</b>	<b>3+</b>	
Possession of Narcotic Drugs	708	97.5%	85.7%	75.4%	2.59
Prisoners who Commit Assault with Intent to Incite to Riot	24	100.0%	79.2%	79.2%	2.58
Promoting Prison Contraband	209	98.6%	83.3%	72.2%	2.54
Prostitution	21	95.2%	90.5%	66.7%	2.52
Dangerous or Deadly Assault by Prisoner or Juvenile	48	100.0%	77.1%	66.7%	2.44
Aggravated Identity Theft	178	97.2%	78.7%	66.9%	2.43
Shoplifting	155	98.1%	81.3%	63.2%	2.43
Failure to Appear in the First Degree	15	100.0%	80.0%	60.0%	2.40
Sex Offender Registration Violation	286	99.7%	78.0%	58.4%	2.36
Resisting Arrest	73	95.9%	76.7%	60.3%	2.33
Theft of Means of Transportation	2,676	97.9%	74.4%	59.4%	2.32
Burglary in the Third Degree	1,051	97.8%	73.9%	59.6%	2.31
Trafficking in the Identity of Another Person or Entity	66	97.0%	74.2%	57.6%	2.29
Possession of Dangerous Drugs	1,199	96.6%	74.1%	57.5%	2.28
Robbery	299	92.0%	72.6%	59.9%	2.24
Identity Theft	251	94.4%	73.7%	56.2%	2.24
Possession of Marijuana	190	93.7%	71.6%	57.4%	2.23
Misconduct Involving Weapons	1,361	97.6%	71.1%	54.3%	2.23
Trafficking in Stolen Property	730	95.8%	69.6%	56.6%	2.23
Participating in or Assisting a Criminal Syndicate	88	94.3%	69.3%	59.1%	2.23
Fraudulent Schemes and Artifices	452	93.6%	69.5%	57.3%	2.20
Forgery	884	96.8%	69.7%	52.4%	2.19
Burglary in the Second Degree	1,339	95.1%	68.5%	55.4%	2.19
Unlawful Flight from Pursuing Law Enforcement Vehicle	201	92.5%	71.1%	53.2%	2.17
Stalking	22	95.5%	63.6%	45.5%	2.05
Conducting a Chop Shop	35	94.3%	62.9%	45.7%	2.03
Unlawful Use of Means of Transportation	207	94.2%	63.8%	45.4%	2.03
Aggravated Domestic Violence	118	93.2%	60.2%	47.5%	2.01
Hindering Prosecution in the First Degree	20	95.0%	65.0%	40.0%	2.00
Escape in the Second Degree	88	100.0%	59.1%	39.8%	1.99
Aggravated Robbery	203	87.7%	64.0%	45.3%	1.97
Theft of a Credit Card-Obtaining Credit Card by Fraud	78	91.0%	64.1%	41.0%	1.96
Arson of a Structure or Property	15	86.7%	53.3%	53.3%	1.93
Failure to Stop: Accidents Involving Death or Personal Injuries	41	87.8%	56.1%	48.8%	1.93
Participating in or Assisting a Criminal Street Gang	28	100.0%	53.6%	35.7%	1.89
Possession, Manufacture, etc. of Drug Paraphernalia	458	87.8%	60.9%	39.3%	1.88
Criminal Trespass in the First Degree	93	81.7%	60.2%	45.2%	1.87
Criminal Damage	68	82.4%	58.8%	45.6%	1.87
Theft	806	87.0%	56.8%	40.7%	1.84
Trafficking in Narcotic Drugs	2,069	83.6%	57.1%	43.0%	1.84
Armed Robbery	2,767	83.9%	56.3%	43.2%	1.83
Disorderly Conduct (Reckless Use of Weapon)	85	85.9%	55.3%	41.2%	1.82
Child Prostitution	33	87.9%	57.6%	36.4%	1.82
Burglary in the First Degree	475	83.6%	53.3%	44.4%	1.81
Aggravated Assault	4,017	83.3%	54.2%	41.3%	1.79
Murder (Old Code)	72	83.3%	52.8%	41.7%	1.78
Rape (Old Code)	18	77.8%	61.1%	38.9%	1.78
DUI	2,834	89.1%	54.3%	33.9%	1.77
Threatening or Intimidating	28	85.7%	53.6%	35.7%	1.75
Unlawful Imprisonment	14	92.9%	42.9%	35.7%	1.71

**Table 19: Frequency of Priors by Most Serious Current Committing Offense (continued)**

Most Serious Current Committing Offense	Inmates	Number of Priors			Weighted Average*
		1+	2+	3+	
Arson of an Occupied Structure	69	79.7%	56.5%	33.3%	1.70
Illegal Control of or Illegally Conducting an Enterprise	46	89.1%	45.7%	30.4%	1.65
First Degree Murder	1,356	75.8%	51.6%	37.3%	1.65
Trafficking in Dangerous Drugs	2,412	76.3%	50.0%	36.6%	1.63
Possession of Burglary Tools	79	84.8%	48.1%	30.4%	1.63
Theft by Extortion	13	76.9%	46.2%	38.5%	1.62
Money Laundering	28	85.7%	46.4%	28.6%	1.61
Sexual Assault	442	77.6%	45.9%	35.5%	1.59
Child or Vulnerable Adult Abuse	220	81.4%	45.9%	29.5%	1.57
Aggravated Harassment	23	87.0%	52.2%	17.4%	1.57
Drive by Shooting	230	70.9%	43.0%	34.8%	1.49
Second Degree Murder	1,210	72.4%	44.5%	31.8%	1.49
Criminal Possession of a Forgery Device	67	82.1%	47.8%	17.9%	1.48
Kidnapping	970	69.2%	42.9%	30.6%	1.43
Discharging a Firearm at a Structure	88	67.0%	37.5%	28.4%	1.33
Manslaughter	775	66.5%	36.3%	24.9%	1.28
Luring a Minor for Sexual Exploitation	23	78.3%	30.4%	13.0%	1.22
Criminal Simulation	10	90.0%	20.0%	10.0%	1.20
Sexual Abuse	153	80.4%	24.8%	13.7%	1.19
Criminal Impersonation	35	82.9%	28.6%	5.7%	1.17
Endangerment	109	65.1%	33.0%	18.3%	1.17
Involving or Using Minors in Drug Offenses	26	73.1%	23.1%	19.2%	1.15
Unlawful Discharge of Firearms	14	50.0%	35.7%	28.6%	1.14
Negligent Homicide	71	60.6%	32.4%	21.1%	1.14
Sexual Conduct with a Minor	1,362	61.4%	28.6%	18.1%	1.08
Molestation of a Child	1,452	65.1%	27.3%	15.0%	1.07
Use of Wire or Electronic Communication in Drug Transactions	16	68.8%	25.0%	12.5%	1.06
Trafficking in Marijuana	1,477	58.7%	28.3%	17.6%	1.05
Sexual Exploitation of a Minor	213	62.4%	22.5%	14.6%	1.00
Smuggling	28	57.1%	7.1%	3.6%	0.68
Continuous Sexual Abuse of a Child	33	45.5%	6.1%	3.0%	0.55
Other Offenses	185	86.5%	58.4%	43.2%	1.88
<b>Grand Total</b>	<b>40,431</b>	<b>83.8%</b>	<b>56.0%</b>	<b>41.8%</b>	<b>1.81</b>

In Chapter 4, based on a thorough review of the violence histories of inmates, we were able to determine how many are violent offenders (26,457=65.4%) and how many are non-violent offenders (13,974=34.6%). In Chapter 5, based on a similar review of inmate criminal histories, we have determined how many are repeat offenders (33,896=83.8%) and how many are first felony offenders (6,535=16.2%). Combining this information as shown in Table 20 below allows us to answer one of most important questions one can ask about Arizona prisoners.

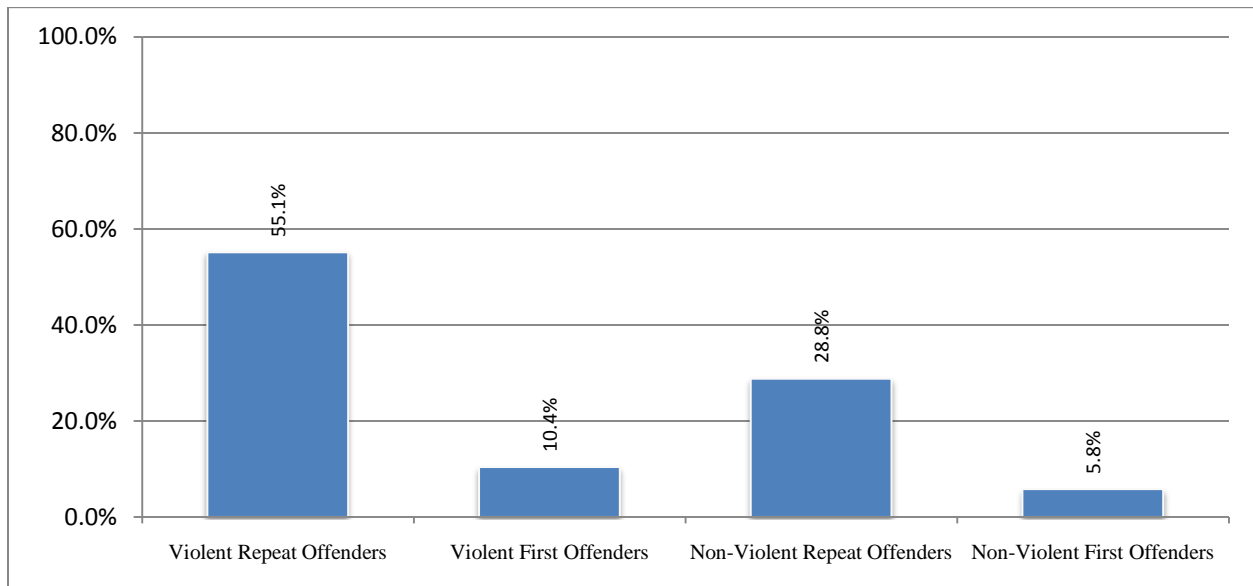
**Table 20: History of Felony Violence by Prior Felony Record**

<b>History of Felony Violence by Prior Felony Record</b>	<b>Inmates</b>	<b>% Total</b>
<u>Violent Offender</u>	<u>26,457</u>	<u>65.4%</u>
First Offender	4,192	10.4%
Repeat Offender	22,265	55.1%
<u>Non-Violent Offender</u>	<u>13,974</u>	<u>34.6%</u>
First Offender	2,343	5.8%
Repeat Offender	11,631	28.8%
<b>Grand Total</b>	<b>40,431</b>	<b>100.0%</b>
Violent or Repeat Offender	38,088	94.2%
Non-Violent First Offender	2,343	5.8%

***Our calculations reveal a total of 2,343 Non-Violent First Offenders in Arizona prisons as of September 30, 2009, constituting 5.8% of the inmate population.***

Most evident from the above is the fact that 55.1% of the inmate population consists of Violent Repeat Offenders. About half as many are Non-Violent Repeat Offenders (28.8%). Together, these two groups of repeat offenders account for 83.8% of the population. Of the remaining group of 6,535 first offenders, the clear majority (64.2%) are violent offenders (4,192).

***Overall, 38,088=94.2% of the inmate population consists of violent and repeat offenders. Approximately 16 of every 17 Arizona inmates is a violent or repeat offender.***

**Figure 9: The Four Major Inmate Sub-Populations**



## Chapter 6: Major Inmate Sub-Populations

In Chapter 5, we took a close look at the criminal histories of Arizona inmates, and documented the fact that 83.8% have prior felony records. Combining this information with that obtained in the previous chapter regarding inmate histories of felony violence, we were able to determine that 94.2% of the inmate population consists of violent and repeat offenders. More specifically, inmates may be divided into four major categories or sub-populations according to their criminal and violence histories as follows:

1. Violent Repeat Offenders (55.1%)
2. Violent First Offenders (10.4%)
3. Non-Violent Repeat Offenders (28.8%)
4. Non-Violent First Offenders (5.8%)

This four-way categorization provides perhaps the most meaningful division of the inmate population when it comes to judging the use of scarce state resources for the confinement of convicted felons. Hypothetically, Violent Repeat Offenders should pose the greatest threat to society in terms of the seriousness of the offenses they've committed and the repetitive nature of their criminal acts. Conversely, if our method of categorizing inmates is appropriate, then Non-Violent First Offenders should pose the least threat to society, while the remaining two groups should pose intermediate levels of risk and dangerousness. However, we have yet to offer any real proof that these assumptions are correct. In particular, we know nothing about these four groups other than the conventions that were used to define them. In this chapter, we develop an in-depth profile of the four major inmate sub-populations to allow a more informed judgment about the benefits of incarceration of any given group, as well as the degree of risk or threat posed by any of the four.

To gain a better idea of the make-up of each sub-population, we consider offender and offense-related information grouped into four general categories, including 1) facts related to current offenses and the current commitment by the court, 2) facts related to the sentence imposed by the court as reflected by TTBS (total-time-to-be-served), 3) facts related to the criminal histories of inmates, and 4) other facts concerning the degree of risk inmates pose to society or to other inmates and staff.

We begin with a look at facts related to the inmate's current offenses and his or her current commitment to the department, including:

1. The type of sentence imposed
2. The general category of the most serious current offense
3. The felony class of the most serious current offense
4. The number of offenses for which the inmates has been committed to the department
5. The number of offense dates for crimes resulting in commitment to the department
6. The category of the most recent commitment to the department

## Current Commitment-Related Facts

The six factors listed above may be taken to address the overall nature and seriousness of the circumstances resulting in the inmate's commitment to the department. Tables 21 and 22 below provide detailed profiles on each of these six items for the four inmate sub-populations and for the population as a whole. Table 21 provides the raw counts of inmates by category, while Table 22 provides the percentage of each sub-population falling in that category.

Table 21 shows that 1,202=77.7% of lifers and death row inmates are Violent Repeat Offenders. Most of the rest (340 or 22.0%) are Violent First Offenders. However, only about 1 in 19 Violent Repeat Offenders and about 1 in 12 Violent First Offenders carry life or death sentences. Just four (4) Non-Violent Repeat Offenders and one (1) Non-Violent First Offender are lifers.

**Table 21: Current Commitment Profile of Major Inmate Sub-Populations (#)**

<b>Inmate Category</b>	<b>Violent Repeat Offender</b>	<b>Violent First Offender</b>	<b>Non-Violent Repeat Offender</b>	<b>Non-Violent First Offender</b>	<b>Grand Total</b>
<b>Total</b>	<b>22,265</b>	<b>4,192</b>	<b>11,631</b>	<b>2,343</b>	<b>40,431</b>
Death Sentence	107	21	0	0	128
Life Sentence	1,095	319	4	1	1,419
Term of Years	21,063	3,852	11,627	2,342	38,884
Class 1 Felony	1,700	589	0	0	2,289
Class 2 Felony	7,409	2,122	2,172	520	12,223
Class 3 Felony	6,401	1,194	3,711	857	12,163
Class 4 Felony	5,138	152	4,401	671	10,362
Class 5 Felony	692	22	478	66	1,258
Class 6 Felony	924	114	86	229	1,353
Violent Offense	12,077	2,776	0	0	14,853
Sex Offense	2,769	1,278	0	0	4,047
Property Offense	3,285	30	5,651	442	9,408
Drug Trafficking	1,655	78	2,817	1,455	6,005
Drug Possession	973	6	1,463	121	2,563
DUI	1,119	15	1,405	295	2,834
Escape or Related Offense	366	6	273	25	670
Public Order/Morals Offense	21	3	22	5	51
One ADC Offense Count*	4,176	2,559	2,074	1,696	10,505
Two ADC Offense Counts*	4,044	824	2,715	423	8,006
Three+ ADC Offense Counts*	14,045	809	6,842	224	21,920
One ADC Offense Date*	5,603	3,527	2,371	1,818	13,319
Two ADC Offense Dates*	4,985	417	3,030	362	8,794
Three+ ADC Offense Dates*	11,677	248	6,230	163	18,318
1 Offense Date & 1-2 Offense Counts	4,949	3,087	2,304	1,797	12,137
2+ Offense Dates or 3+ Offense Counts	17,316	1,105	9,327	546	10,128
Direct Court Commitment	16,893	3,888	7,030	1,815	29,626
Probation Revocation-New Offense	3,211	0	2,830	0	6,041
Probation Revocation-Technical Violation	1,682	303	1,455	340	3,780
ADC Supervision Revocation-New Offense	431	0	219	0	650
Commitment as a Condition of Probation	48	1	97	188	334

\*Counts and offense dates applicable to current and prior ADC commitments.

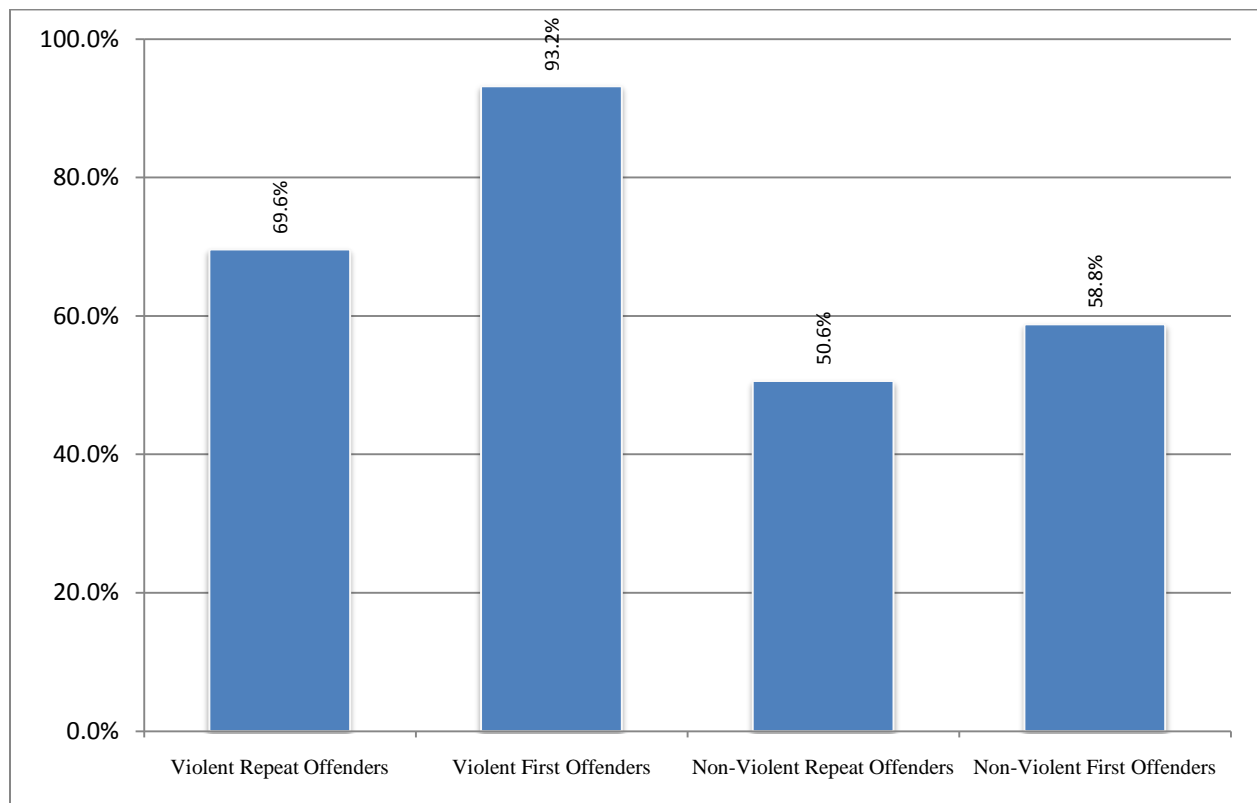
**Table 22: Current Commitment Profile of Major Inmate Sub-Populations (%)**

Inmate Category	Violent Repeat Offender	Violent First Offender	Non-Violent Repeat Offender	Non-Violent First Offender	Grand Total
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
Death Sentence	0.5%	0.5%	0.0%	0.0%	0.3%
Life Sentence	4.9%	7.6%	0.0%	0.0%	3.5%
Term of Years	94.6%	91.9%	100.0%	100.0%	96.2%
Class 1 Felony	7.6%	14.1%	0.0%	0.0%	5.7%
Class 2 Felony	33.3%	50.6%	18.7%	22.2%	30.2%
Class 3 Felony	28.7%	28.5%	31.9%	36.6%	30.1%
Class 4 Felony	23.1%	3.6%	37.8%	28.6%	25.6%
Class 5 Felony	3.1%	0.5%	4.1%	2.8%	3.1%
Class 6 Felony	4.2%	2.7%	0.7%	9.8%	3.3%
Violent Offense	54.2%	66.2%	0.0%	0.0%	36.7%
Sex Offense	12.4%	30.5%	0.0%	0.0%	10.0%
Property Offense	14.8%	0.7%	48.6%	18.9%	23.3%
Drug Trafficking	7.4%	1.9%	24.2%	62.1%	14.9%
Drug Possession	4.4%	0.1%	12.6%	5.2%	6.3%
DUI	5.0%	0.4%	12.1%	12.6%	7.0%
Escape or Related Offense	1.6%	0.1%	2.3%	1.1%	1.7%
Public Order/Morals Offense	0.1%	0.1%	0.2%	0.2%	0.1%
One ADC Offense Count*	18.8%	61.0%	17.8%	72.4%	26.0%
Two ADC Offense Counts*	18.2%	19.7%	23.3%	18.1%	19.8%
Three+ ADC Offense Counts*	63.1%	19.3%	58.8%	9.6%	54.2%
One ADC Offense Date*	25.2%	84.1%	20.4%	77.6%	32.9%
Two ADC Offense Dates*	22.4%	9.9%	26.1%	15.5%	21.8%
Three+ ADC Offense Dates*	52.4%	5.9%	53.6%	7.0%	45.3%
1 Offense Date & 1-2 Offense Counts	22.2%	73.6%	19.8%	76.7%	30.0%
2+ Offense Dates or 3+ Offense Counts	77.8%	26.4%	80.2%	23.3%	25.1%
Direct Court Commitment	75.9%	92.7%	60.4%	77.5%	73.3%
Probation Revocation-New Offense	14.4%	0.0%	24.3%	0.0%	14.9%
Probation Revocation-Technical Violation	7.6%	7.2%	12.5%	14.5%	9.3%
ADC Supervision Revocation-New Offense	1.9%	0.0%	1.9%	0.0%	1.6%
Commitment as a Condition of Probation	0.2%	0.0%	0.8%	8.0%	0.8%

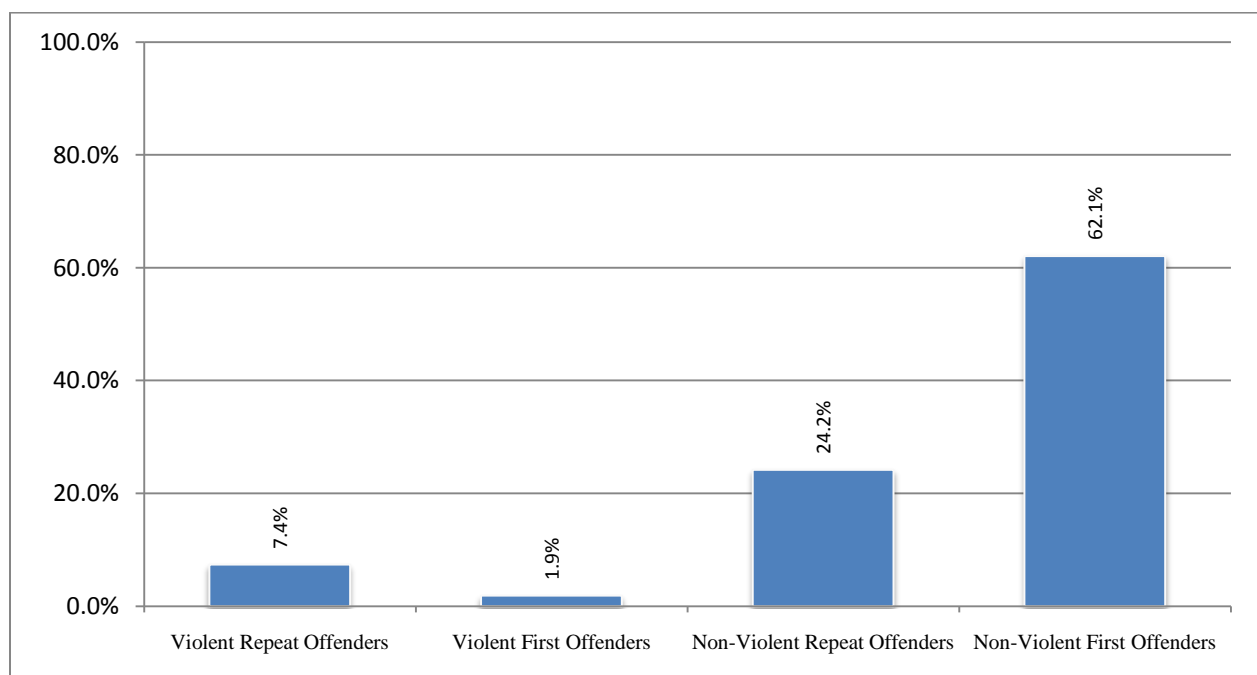
\*Counts and offense dates applicable to current and prior ADC commitments.

As shown by Figure 10, Violent First Offenders are more likely than Violent Repeat Offenders to be committed for Class 1, 2 or 3 felonies (93.2% to 69.6%). Similarly, Non-Violent First Offenders are more likely than Non-Violent Repeat Offenders to be committed for Class 2 or 3 felonies (58.8% to 50.6%). Non-Violent First Offenders are more than twice as likely as other inmates to be committed for Class 5 or 6 felonies (12.6% to 6.1%). As demonstrated by Figure 11, Non-Violent First Offenders are more often committed for drug trafficking than are Non-Violent Repeat Offenders (62.1% to 24.2%). Conversely, as shown by Figure 12, Non-Violent Repeat Offenders are more often committed for Property Offenses (48.6% to 18.9%). ***Clearly, a current commitment for drug trafficking is one factor that distinguishes Non-Violent First Offenders from the other three groups.*** While violent offenses predominate among both Violent Repeat Offenders (54.2%) and Violent First Offenders (66.2%), the latter are much more likely to be committed for sex offenses (30.5% to 12.4%). Conversely, Violent Repeat Offenders are much more likely to be committed for non-violent offenses (33.4% to 2.6%).

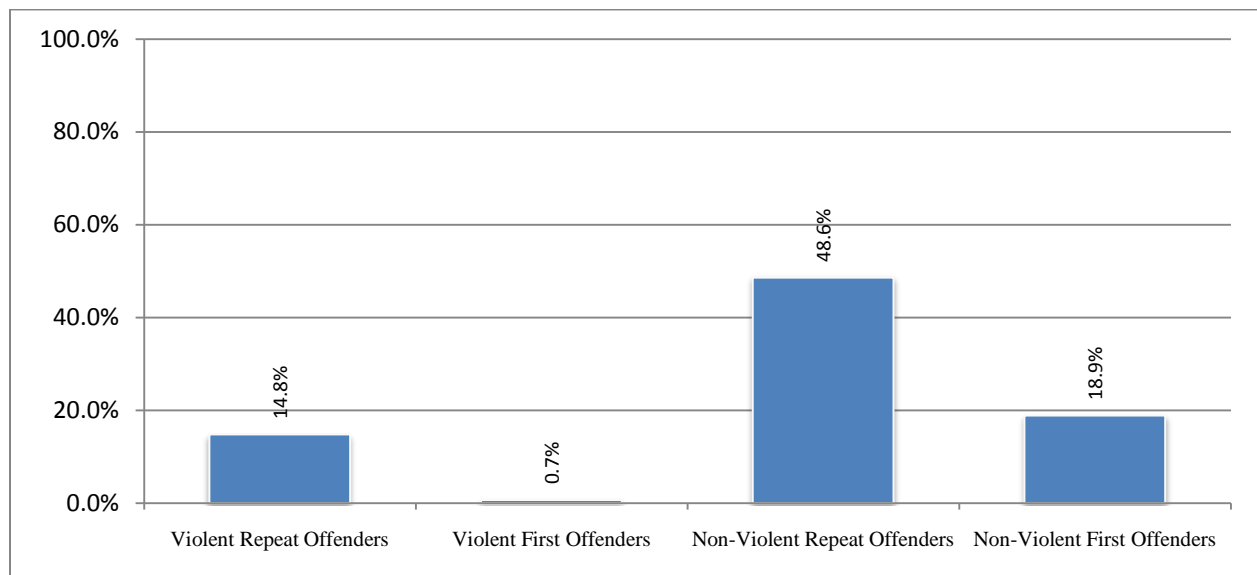
**Figure 10: Percent of Inmates Committed for Class 1, 2 or 3 Felonies**



**Figure 11: Percent of Inmates Committed for Drug Trafficking**

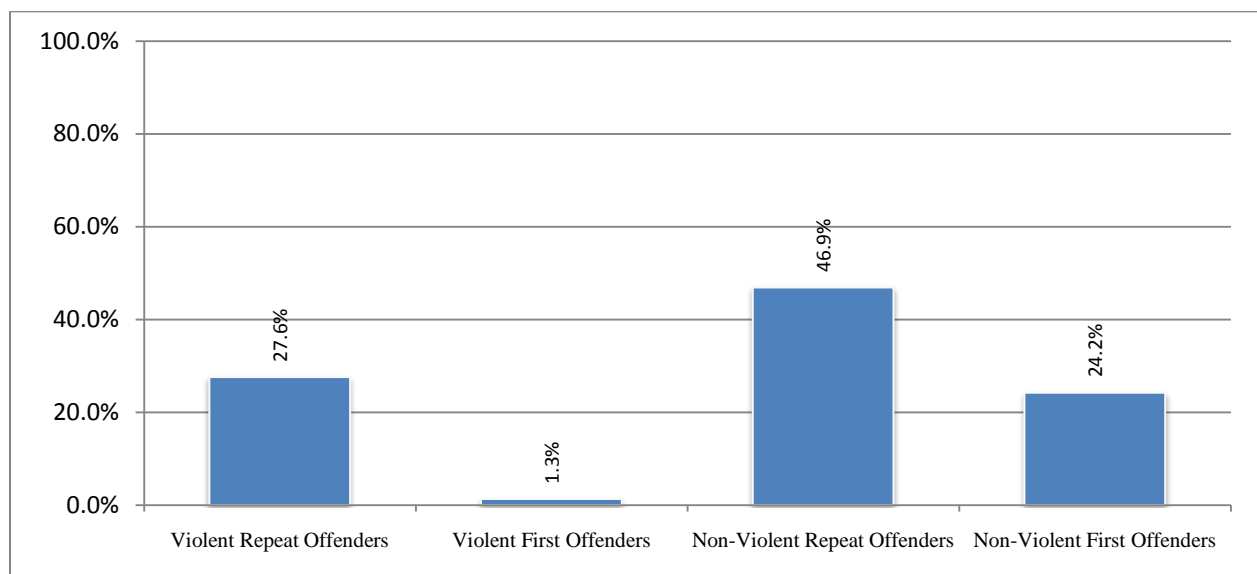


**Figure 12: Percent of Inmates Committed for Property Offenses**

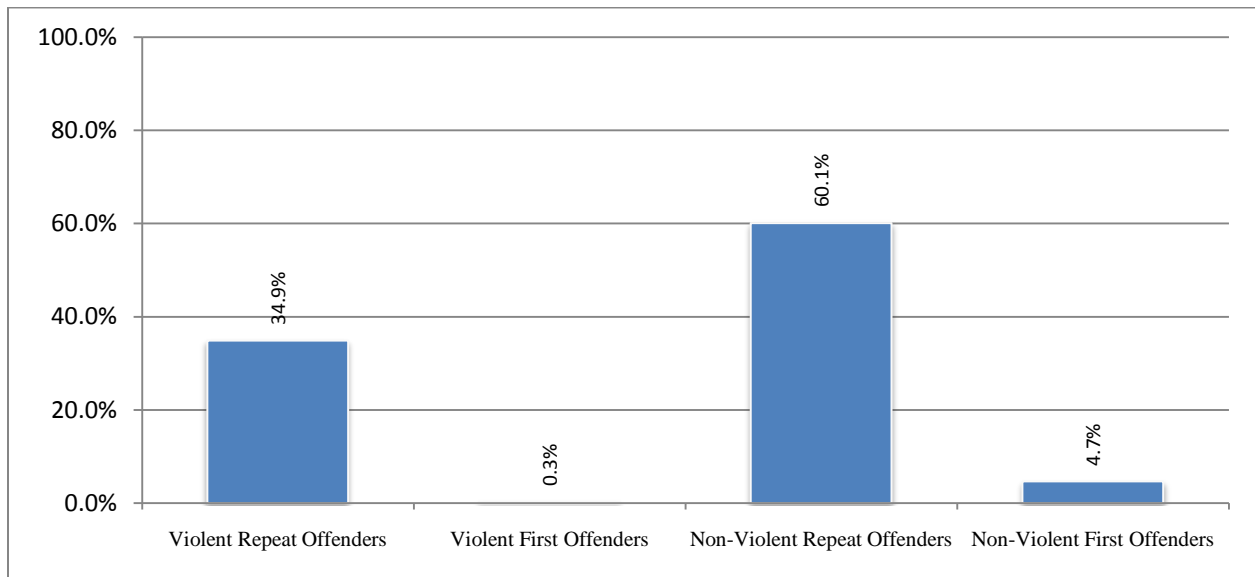


Looking at things from the reverse perspective (compare Figures 13 and 14), drug traffickers are more likely than property offenders to be Non-Violent First Offenders (24.2% to 4.7%). Conversely, property offenders are more likely than drug traffickers to be Non-Violent Repeat Offenders (60.1% to 46.9%). As far as a history of violence is concerned, property offenders are slightly more likely than drug traffickers to be Violent Repeat Offenders (34.9% to 27.6%).

**Figure 13: Major Sub-Population Distribution-Inmates Committed for Drug Trafficking**

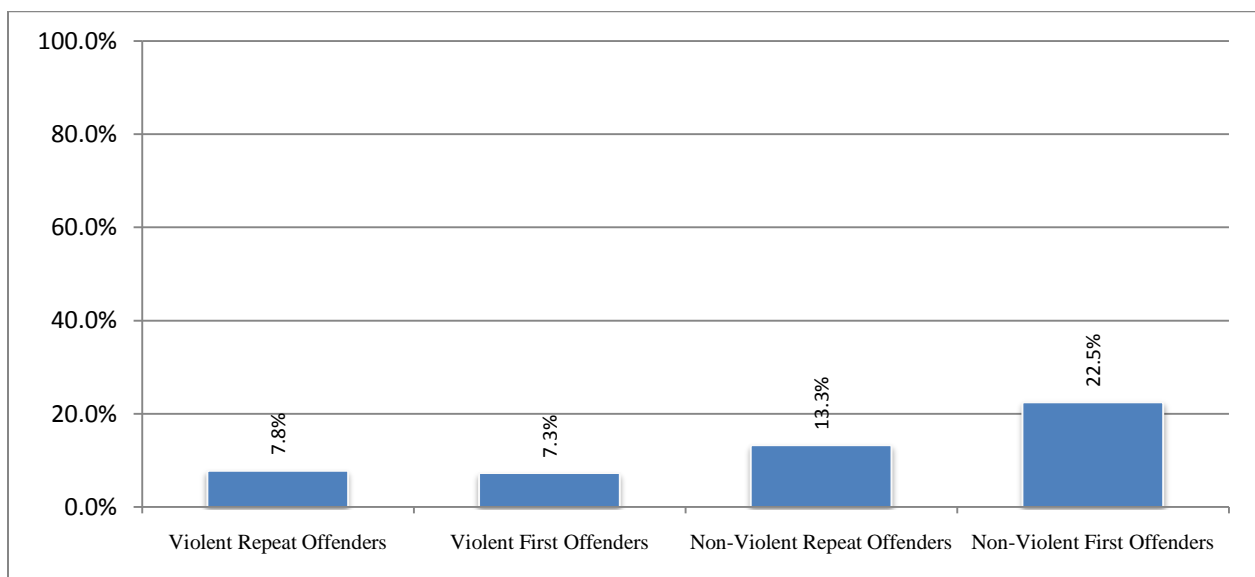


**Figure 14: Major Sub-Population Distribution-Inmates Committed for Property Offenses**



Repeat offenders of both types are more likely than first offenders to have multiple ADC offense counts, i.e., 63.1% of Violent Repeat Offenders and 58.8% of Non-Violent Repeat Offenders have three or more counts in comparison to 19.3% of Violent First Offenders and 9.6% of Non-Violent First Offenders. ***More Non-Violent First Offenders than Violent First Offenders have two or more separate current offense dates (22.5% to 15.8%).*** As indicated by Figure 15 below, a higher percentage of Non-Violent First Offenders are committed as technical probation violators or as a condition of probation (22.5%) than any of the other three groups (9.4%). ***Accordingly, these factors were judged to differentiate Non-Violent First Offenders from other inmates.***

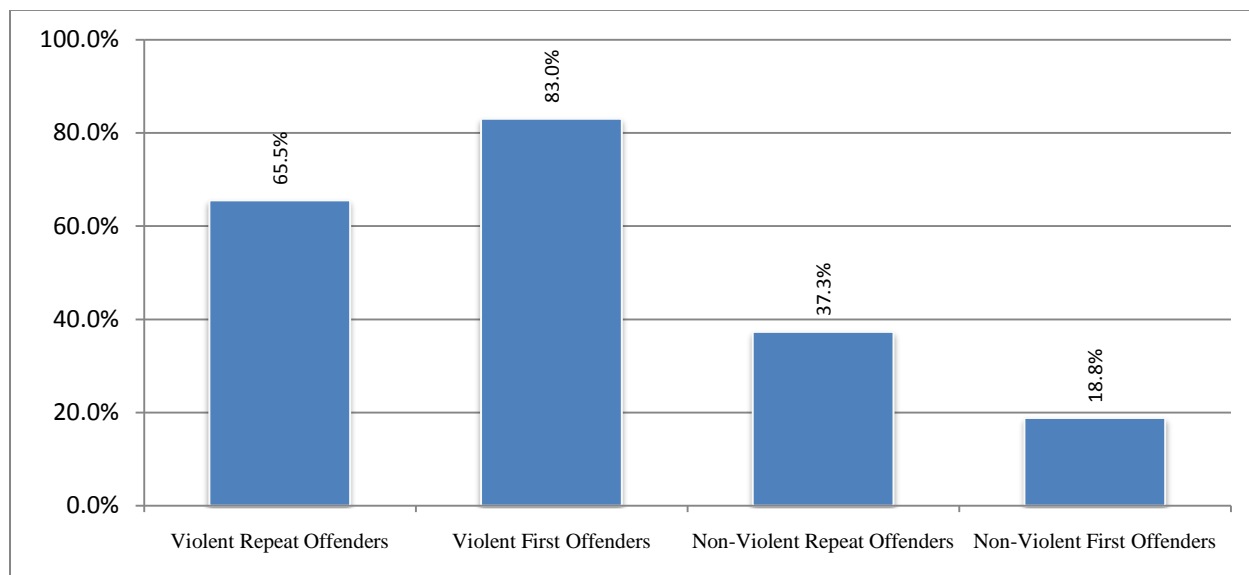
**Figure 15: Percent Committed as Technical Probation Violators or as a Condition of Probation**



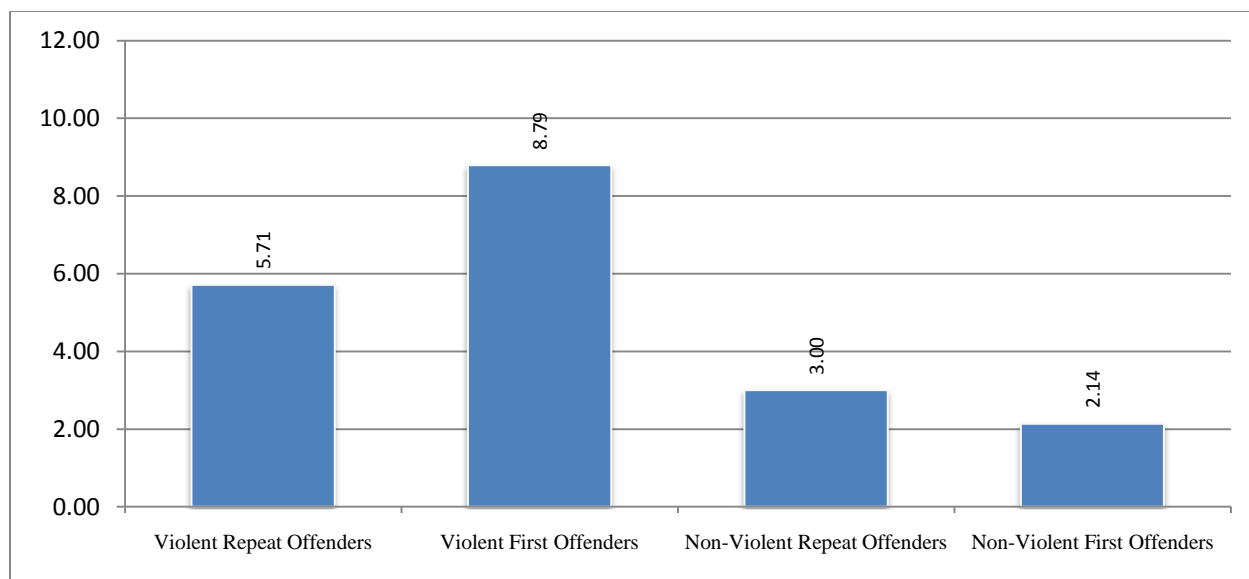
## Sentence-Related Facts

Tables 23 & 24 provide detail on the sentences inmates are serving, expressed as Total-Time-to-be-Served (TTBS). In comparing the sub-populations, we are interested in TTBS in relation to the overall median of 4.28 years. Since the distribution is laid out in one-year increments, we will consider the percentage of inmates with a TTBS of four years or more. This percentage varies as shown in Figure 16 below, while the median TTBS varies as shown in Figure 17.

**Figure 16: Time-to-be-Served (TTBS) of 4 Years or More by Major Sub-Population**



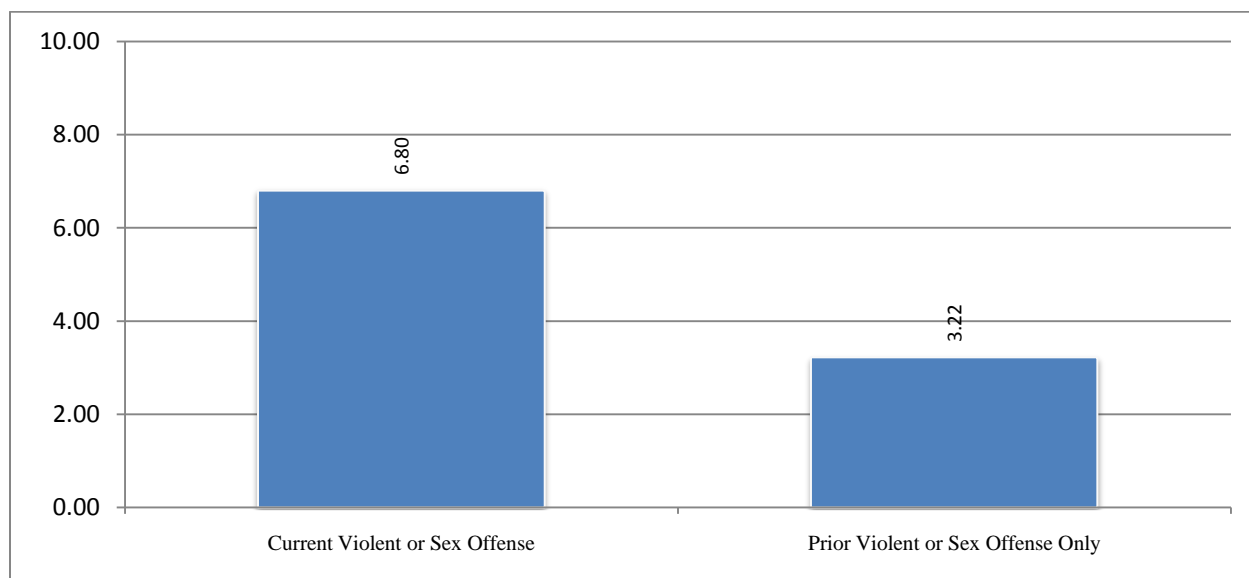
**Figure 17: Median Time-to-be-Served in Years by Major Sub-Population**



Just 440 or 18.8% of Non-Violent First Offenders were committed with a TTBS of 4 years or more. This is in comparison to 37.3% of Non-Violent Repeat Offenders, 65.5% of Violent Repeat Offenders, and 83.0% of Violent First Offenders. ***Thus, a TTBS (or sentence) of 4 years or more is considered an exceptional circumstance indicating a more serious than typical crime for a Non-Violent First Offender.*** While 1,904=81.2% of Non-Violent First Offenders are serving prison terms of less than four years, almost half (951=49.9%) are for Class 2 or 3 felonies. *Stated more succinctly, 1,391=59.1% of Non-Violent First Offenders are in prison for Class 2 or 3 felonies or will serve 4 years or more.*

Across the four sub-populations, Violent First Offenders are serving the most time. Remember, however, that Violent Repeat Offenders include inmates with prior but no current violent offenses. This tends to pull down TTBS. When Violent Repeat Offenders are split into sub-groups of inmates with or without current violent or sex offenses, the numbers change significantly. Among the 17,081 Violent Repeat Offenders with current violent or sex offenses, 12,491=73.1% have a TTBS of 4+ years. Among the 5,184 Violent Repeat Offenders without such offenses, 2,096=40.4% have a TTBS of 4+ years. Likewise, as shown by Figure 18, the median TTBS is more than twice as long for Violent Repeat Offenders with current violent or sex offenses (6.80 years) as it is for those without them (3.22 years). The median TTBS for Violent Repeat Offenders without current violent or sex offenses (3.22 years) is about the same time as the median TTBS for Non-Violent Repeat Offenders (3.00 years).

**Figure 18: Median Time-to-be-Served (TTBS) for Violent Repeat Offenders**





**Table 23: Sentence Profile of Major Inmate Sub-Populations (#)**

<b>Inmate Category</b>	<b>Violent Repeat Offender</b>	<b>Violent First Offender</b>	<b>Non-Violent Repeat Offender</b>	<b>Non-Violent First Offender</b>	<b>Grand Total</b>
<b>Total</b>	<b>22,265</b>	<b>4,192</b>	<b>11,631</b>	<b>2,343</b>	<b>40,431</b>
0.00-0.99 Total Years-to-Serve	644	102	864	466	2,076
1.00-1.99 Years	2,454	116	2,661	497	5,728
2.00-2.99 Years	2,567	288	2,162	570	5,587
3.00-3.99 Years	2,013	206	1,607	370	4,196
4.00-4.99 Years	2,318	418	1,576	243	4,555
5.00-5.99 Years	1,793	254	1,168	87	3,302
6.00-6.99 Years	1,427	346	488	37	2,298
7.00-7.99 Years	767	116	358	21	1,262
8.00-8.99 Years	1,492	356	279	15	2,142
9.00-9.99 Years	587	145	142	9	883
10.00-10.99 Years	650	116	104	4	874
11.00-11.99 Years	389	87	42	7	525
12.00-12.99 Years	491	157	27	3	678
13.00-13.99 Years	337	77	44	1	459
12.00-14.99 Years	221	84	15	0	320
15.00-15.99 Years	304	97	15	2	418
16.00-16.99 Years	257	152	10	0	419
17.00-17.99 Years	227	54	8	1	290
18.00-18.99 Years	163	30	6	1	200
19.00-19.99 Years	317	151	4	1	473
20+ Years	2,847	840	51	8	3,746
0-3.99 Total Years-to-Serve	7,678	712	7,294	1,903	17,587
Class 2 Felony	441	143	376	174	1,134
Class 3 Felony	1,903	310	1,942	777	4,932
Class 4 Felony	3,841	127	3,672	659	8,299
Class 5 Felony	609	20	453	66	1,148
Class 6 Felony	884	112	851	227	2,074
4+ Total Years-to-Serve	14,587	3,480	4,337	440	22,844
Class 1 Felony	1,700	589	0	0	2,289
Class 2 Felony	6,968	1,979	1,796	346	11,089
Class 3 Felony	4,498	884	1,769	80	7,231
Class 4 Felony	1,297	25	729	12	2,063
Class 5 Felony	83	2	25	0	110
Class 6 Felony	41	1	18	2	62
Class 4-6 Felony & 0-3.99 Total Years-to-Serve	5,434	259	4,976	952	11,521
Class 1-3 Felony or 4+ Total Years-to-Serve	16,831	3,933	6,655	1,391	28,910

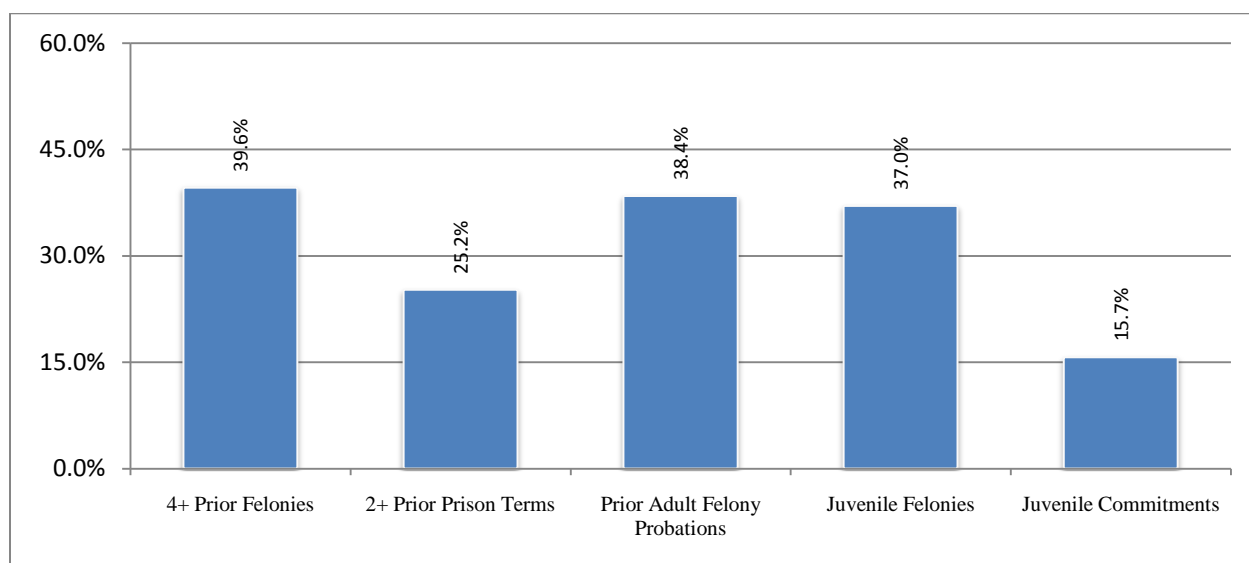
**Table 24: Sentence Profile of Major Inmate Sub-Populations (%)**

<b>Inmate Category</b>	<b>Violent Repeat Offender</b>	<b>Violent First Offender</b>	<b>Non-Violent Repeat Offender</b>	<b>Non-Violent First Offender</b>	<b>Grand Total</b>
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
0.00-0.99 Total Years-to-Serve	2.9%	2.4%	7.4%	19.9%	5.1%
1.00-1.99 Years	11.0%	2.8%	22.9%	21.2%	14.2%
2.00-2.99 Years	11.5%	6.9%	18.6%	24.3%	13.8%
3.00-3.99 Years	9.0%	4.9%	13.8%	15.8%	10.4%
4.00-4.99 Years	10.4%	10.0%	13.5%	10.4%	11.3%
5.00-5.99 Years	8.1%	6.1%	10.0%	3.7%	8.2%
6.00-6.99 Years	6.4%	8.3%	4.2%	1.6%	5.7%
7.00-7.99 Years	3.4%	2.8%	3.1%	0.9%	3.1%
8.00-8.99 Years	6.7%	8.5%	2.4%	0.6%	5.3%
9.00-9.99 Years	2.6%	3.5%	1.2%	0.4%	2.2%
10.00-10.99 Years	2.9%	2.8%	0.9%	0.2%	2.2%
11.00-11.99 Years	1.7%	2.1%	0.4%	0.3%	1.3%
12.00-12.99 Years	2.2%	3.7%	0.2%	0.1%	1.7%
13.00-13.99 Years	1.5%	1.8%	0.4%	0.0%	1.1%
12.00-14.99 Years	1.0%	2.0%	0.1%	0.0%	0.8%
15.00-15.99 Years	1.4%	2.3%	0.1%	0.1%	1.0%
16.00-16.99 Years	1.2%	3.6%	0.1%	0.0%	1.0%
17.00-17.99 Years	1.0%	1.3%	0.1%	0.0%	0.7%
18.00-18.99 Years	0.7%	0.7%	0.1%	0.0%	0.5%
19.00-19.99 Years	1.4%	3.6%	0.0%	0.0%	1.2%
20+ Years	12.8%	20.0%	0.4%	0.3%	9.3%
0-3.99 Total Years-to-Serve	34.5%	17.0%	62.7%	81.2%	43.5%
Class 2 Felony	2.0%	3.4%	3.2%	7.4%	2.8%
Class 3 Felony	8.5%	7.4%	16.7%	33.2%	12.2%
Class 4 Felony	17.3%	3.0%	31.6%	28.1%	20.5%
Class 5 Felony	2.7%	0.5%	3.9%	2.8%	2.8%
Class 6 Felony	4.0%	2.7%	7.3%	9.7%	5.1%
4+ Total Years-to-Serve	65.5%	83.0%	37.3%	18.8%	56.5%
Class 1 Felony	7.6%	14.1%	0.0%	0.0%	5.7%
Class 2 Felony	31.3%	47.2%	15.4%	14.8%	27.4%
Class 3 Felony	20.2%	21.1%	15.2%	3.4%	17.9%
Class 4 Felony	5.8%	0.6%	6.3%	0.5%	5.1%
Class 5 Felony	0.4%	0.0%	0.2%	0.0%	0.3%
Class 6 Felony	0.2%	0.0%	0.2%	0.1%	0.2%
Class 4-6 Felony & 0-3.99 Total Years-to-Serve	24.0%	6.2%	42.8%	40.6%	28.5%
Class 1-3 Felony or 4+ Total Years-to-Serve	76.0%	93.8%	57.2%	59.4%	71.5%

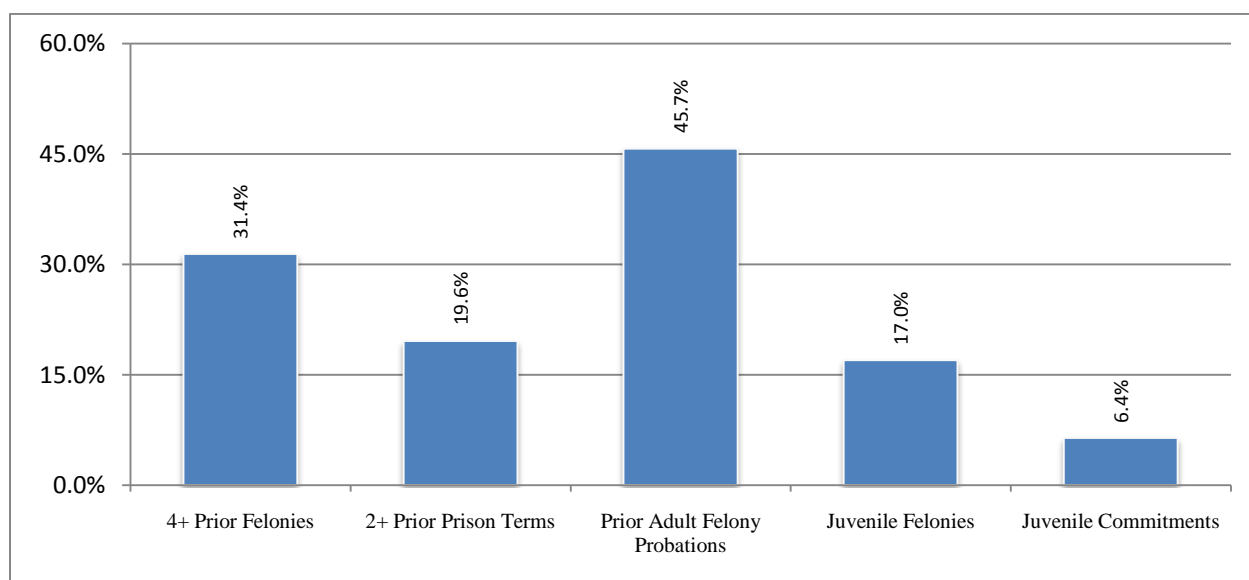
## Criminal History-Related Facts

Tables 25 & 26 provide an in-depth criminal history profile for the four major sub-populations. Obviously, this profile is relatively limited in the case of Violent & Non-Violent First Offenders, so we will restrict our comments to a comparison of Violent Repeat Offenders and Non-Violent Repeat Offenders. A comparison of Figures 19 and 20 shows that, in most categories, Violent Repeat Offenders have more extensive criminal histories than do Non-Violent Repeat Offenders. However, more Non-Violent Repeat Offenders have prior adult felony probations.

**Figure 19: Criminal History Profile-Violent Repeat Offenders**



**Figure 20: Criminal History Profile-Non-Violent Repeat Offenders**



Non-Violent Repeat Offenders also have more extensive misdemeanor records (48.0% to 43.5%). The major difference, however, is that 11,608 or 52.1% of Violent Repeat Offenders have prior violent felonies, whereas Non-Violent Repeat Offenders have no such felonies by definition. Despite the fact that Violent Repeat Offenders generally have more serious priors and have been in prison more frequently, the percentage of the group successfully prosecuted as repetitive offenders is virtually the same for the two groups (35.5% to 34.9%). This is probably due to the fact (Table 25) that Violent Repeat Offenders are frequently prosecuted as dangerous offenders or for dangerous crimes against children (36.2%). Overall, 62.1% of Violent Repeat Offenders, 61.2% of Violent First Offenders, and 35.5% of Non-Violent Repeat Offenders have been successfully prosecuted with one or more of the three sentencing enhancements.

Across the population of 38,088 violent and repeat offenders, 11,901=31.2% were successfully prosecuted as repetitive offenders, 8,795=23.1% as dangerous offenders, 2,698=7.1% for dangerous crimes against children, and 20,528=53.9% as or for any of the three.

**Table 25: Sentencing Enhancements Applicable to Violent & Repeat Offenders**

<b>Sentencing Enhancement(s) Applicable</b>	<b>Violent Repeat Offender</b>	<b>Violent First Offender</b>	<b>Non-Violent Repeat Offender</b>	<b>Violent &amp; Repeat Offenders</b>
Repetitive Offender	7,768	0	4,133	11,901
Dangerous Offender	6,869	1,926	0	8,795
Dangerous Crime against Children (DCAC)	1,802	896	0	2,698
Dangerous Offender or DCAC	8,058	2,565	0	10,623
Repetitive, Dangerous or DCAC	13,830	2,565	4,133	20,528
No Sentencing Enhancement	8,435	1,627	7,498	17,560
<b>Grand Total</b>	<b>22,265</b>	<b>4,192</b>	<b>11,631</b>	<b>38,088</b>

<b>Sentencing Enhancement(s) Applicable</b>	<b>Violent Repeat Offender</b>	<b>Violent First Offender</b>	<b>Non-Violent Repeat Offender</b>	<b>Violent &amp; Repeat Offenders</b>
Repetitive Offender	34.9%	0.0%	35.5%	31.2%
Dangerous Offender	30.9%	45.9%	0.0%	23.1%
Dangerous Crime against Children (DCAC)	8.1%	21.4%	0.0%	7.1%
Dangerous Offender or DCAC	36.2%	61.2%	0.0%	27.9%
Repetitive Offender, Dangerous Offender or DCAC	62.1%	61.2%	35.5%	53.9%
No Sentencing Enhancement	37.9%	38.8%	64.5%	46.1%
<b>Grand Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

**Table 26: Criminal History Profile of Major Inmate Sub-Populations (#)**

<b>Inmate Category</b>	<b>Violent Repeat Offender</b>	<b>Violent First Offender</b>	<b>Non-Violent Repeat Offender</b>	<b>Non-Violent First Offender</b>	<b>Grand Total</b>
<b>Total</b>	<b>22,265</b>	<b>4,192</b>	<b>11,631</b>	<b>2,343</b>	<b>40,431</b>
No Prior Felonies	0	4,192	0	2,343	6,535
One Prior Felony	7,082	0	4,175	0	11,257
Two Prior Felonies	3,580	0	2,158	0	5,738
Three Prior Felonies	2,792	0	1,643	0	4,435
Four Prior Felonies	2,237	0	1,180	0	3,417
Five Prior Felonies	1,770	0	796	0	2,566
Six Prior Felonies	1,279	0	534	0	1,813
Seven Prior Felonies	1,020	0	387	0	1,407
Eight Prior Felonies	720	0	244	0	964
Nine Prior Felonies	480	0	135	0	615
Ten+ Prior Felonies	1,305	0	379	0	1,684
Two+ Prior Felonies	15,183	0	7,456	0	22,639
Three+ Prior Felonies	11,603	0	5,298	0	16,901
Four+ Prior Felonies	8,811	0	3,655	0	12,466
No Prior Violent Felony	10,657	4,192	11,631	2,343	28,823
One+ Prior Violent Felonies	11,608	0	0	0	11,608
No Prior ADC Commitment	10,202	4,192	5,747	2,343	22,484
One Prior ADC Commitment	6,444	0	3,609	0	10,053
Two Prior ADC Commitments	3,160	0	1,423	0	4,583
Three Prior ADC Commitments	1,526	0	567	0	2,093
Four Prior ADC Commitments	668	0	191	0	859
Five+ Prior ADC Commitments	265	0	94	0	359
One+ Prior ADC Commitments	12,063	0	5,884	0	17,947
Two+ Prior ADC Commitments	5,619	0	2,275	0	7,894
Three+ Prior ADC Commitments	2,459	0	852	0	3,311
Prior ADC Sentence	13,113	0	6,342	0	19,455
Prior Adult Felony Probation	8,548	0	5,317	0	13,865
Juvenile Felony Adjudication	8,238	0	1,983	0	10,221
Juvenile Commitment	3,506	0	742	0	4,248
Prior Juvenile or Adult Commitment	13,244	0	6,092	0	19,336
Repetitive Offender (A.R.S. §13-703)	7,768	0	4,133	0	11,901
Prior Juvenile or Adult Probation or Parole	15,180	471	7,487	275	23,413
No Misdemeanor Convictions	6,366	2,231	2,549	1,187	12,333
One Misdemeanor Conviction	2,672	524	1,333	171	4,700
Two Misdemeanor Convictions	2,164	305	1,185	138	3,792
Three Misdemeanor Convictions	1,731	193	956	93	2,973
Four Misdemeanor Convictions	1,378	122	778	68	2,346
Five+ Misdemeanor Convictions	6,571	232	3,851	191	10,845
One+ Misdemeanor Convictions	14,516	1,376	8,103	661	24,656
Two+ Misdemeanor Convictions	11,844	852	6,770	490	19,956
Three+ Misdemeanor Convictions	9,680	547	5,585	352	16,164

**Table 27: Criminal History Profile of Major Inmate Sub-Populations (%)**

<b>Inmate Category</b>	<b>Violent Repeat Offender</b>	<b>Violent First Offender</b>	<b>Non-Violent Repeat Offender</b>	<b>Non-Violent First Offender</b>	<b>Grand Total</b>
No Prior Felonies	0.0%	100.0%	0.0%	100.0%	16.2%
One Prior Felony	31.8%	0.0%	35.9%	0.0%	27.8%
Two Prior Felonies	16.1%	0.0%	18.6%	0.0%	14.2%
Three Prior Felonies	12.5%	0.0%	14.1%	0.0%	11.0%
Four Prior Felonies	10.0%	0.0%	10.1%	0.0%	8.5%
Five Prior Felonies	7.9%	0.0%	6.8%	0.0%	6.3%
Six Prior Felonies	5.7%	0.0%	4.6%	0.0%	4.5%
Seven Prior Felonies	4.6%	0.0%	3.3%	0.0%	3.5%
Eight Prior Felonies	3.2%	0.0%	2.1%	0.0%	2.4%
Nine Prior Felonies	2.2%	0.0%	1.2%	0.0%	1.5%
Ten+ Prior Felonies	5.9%	0.0%	3.3%	0.0%	4.2%
Two+ Prior Felonies	68.2%	0.0%	64.1%	0.0%	56.0%
Three+ Prior Felonies	52.1%	0.0%	45.6%	0.0%	41.8%
Four+ Prior Felonies	39.6%	0.0%	31.4%	0.0%	30.8%
No Prior Violent Felony	47.9%	100.0%	100.0%	100.0%	71.3%
One+ Prior Violent Felonies	52.1%	0.0%	0.0%	0.0%	24.9%
No Prior ADC Commitment	45.8%	100.0%	49.4%	100.0%	55.6%
One Prior ADC Commitment	28.9%	0.0%	31.0%	0.0%	24.9%
Two Prior ADC Commitments	14.2%	0.0%	12.2%	0.0%	11.3%
Three Prior ADC Commitments	6.9%	0.0%	4.9%	0.0%	5.2%
Four Prior ADC Commitments	3.0%	0.0%	1.6%	0.0%	2.1%
Five+ Prior ADC Commitments	1.2%	0.0%	0.8%	0.0%	0.9%
One+ Prior ADC Commitments	54.2%	0.0%	50.6%	0.0%	44.4%
Two+ Prior ADC Commitments	25.2%	0.0%	19.6%	0.0%	19.5%
Three+ Prior ADC Commitments	11.0%	0.0%	7.3%	0.0%	8.2%
Prior ADC Sentence	58.9%	0.0%	54.5%	0.0%	48.1%
Prior Adult Felony Probation	38.4%	0.0%	45.7%	0.0%	34.3%
Juvenile Felony Adjudication	37.0%	0.0%	17.0%	0.0%	25.3%
Juvenile Commitment	15.7%	0.0%	6.4%	0.0%	10.5%
Prior Juvenile or Adult Commitment	59.5%	0.0%	52.4%	0.0%	47.8%
Repetitive Offender (A.R.S. §13-703)	34.9%	0.0%	35.5%	0.0%	29.4%
Prior Juvenile or Adult Probation or Parole	68.2%	11.2%	64.4%	11.7%	57.9%
No Misdemeanor Convictions	28.6%	53.2%	21.9%	50.7%	30.5%
One Misdemeanor Conviction	12.0%	12.5%	11.5%	7.3%	11.6%
Two Misdemeanor Convictions	9.7%	7.3%	10.2%	5.9%	9.4%
Three Misdemeanor Convictions	7.8%	4.6%	8.2%	4.0%	7.4%
Four Misdemeanor Convictions	6.2%	2.9%	6.7%	2.9%	5.8%
Five+ Misdemeanor Convictions	29.5%	5.5%	33.1%	8.2%	26.8%
One+ Misdemeanor Convictions	65.2%	32.8%	69.7%	28.2%	61.0%
Two+ Misdemeanor Convictions	53.2%	20.3%	58.2%	20.9%	49.4%
Three+ Misdemeanor Convictions	43.5%	13.0%	48.0%	15.0%	40.0%

Tables 28 and 29 provide additional information concerning the backgrounds of inmates in the four sub-populations. We discuss this information at length due to its importance.

The first item concerns the filing of a detainer with the department, effectively placing a hold on the inmate, either for a felony offense (felony detainer), or by U.S. Immigration and Customs Enforcement (ICE), a division of the Department of Homeland Security. As indicated, 6,847 or 16.9% of inmates have an active detainer on file with the department. Most of the active detainers are ICE detainers (6,004=14.8% of the population), with felony detainers trailing far

behind (987=2.4%). Furthermore, ICE detainers are in place against 98.4% of the foreign nationals in ADC custody (6,004 of 6,104). ***The detainer issue is especially relevant because a much larger percentage (54.2%) of Non-Violent First Offenders have active detainers on file than any of the other three sub-populations (12.4% as a group).*** That is the case because over half (54.8%) of Non-Violent First Offenders are foreign nationals. While an exact determination cannot be made of how many foreign nationals in custody are undocumented aliens, it is likely that a high percentage of them are. In any case, this may help explain the presence in ADC facilities of over half of the Non-Violent First Offenders in custody. It would certainly be a factor to be taken into account in any decision to release inmates early.

Secondly, 1,391=33.2% of Violent First Offenders and 419=17.9% of Non-Violent First Offenders have mandatory minimum sentences or flat terms to be served before any kind of release to the street could take place. In the case of Non-Violent First Offenders, 188 or 8.0% have flat terms of 4-8 months as a condition of probation for conviction of felony DUI. Altogether, 304 or 13.0% of Non-Violent First Offenders are in prison for felony DUI and effectively carry the same flat term requirement. In addition, 115 or 4.9% of Non-Violent First Offenders carry a mandatory minimum sentence for drug trafficking where special circumstances apply (e.g., over threshold amounts or involving or a minor).

Gang affiliation is the next item to be considered, and the data show that 9,260=22.9% of inmates are either suspected or validated members of prison or street gangs. This includes the 3,011 suspected or validated members of so-called Security Threat Groups (STGs). These are the gangs that have been identified by the department as posing the greatest degree of threat to the safety and security of the institutions in which they reside. The two other categories of gang affiliation include non-STG prison gangs and street gangs, with members totaling 1,164 and 5,085 respectively. Regarding the frequency of gang affiliation across the four sub-populations, 31.1% of Violent Repeat Offenders are gang members in comparison to 15.4% of Non-Violent Repeat Offenders, 11.2% of Violent First Offenders, and 2.9% of Non-Violent First Offenders. While just 69 Non-Violent First Offenders are gang members, gang membership is still a risk factor that should be considered for this group.

Also subject to special consideration is the inmate's current custody-level assignment. This is the custody level to which the inmate is assigned by the department's inmate classification team. Our results show that 16.5% of inmates are classified to close or maximum custody, the two most secure levels. Across the four sub-populations, 23.6% of Violent Repeat Offenders, 12.9% of Violent First Offenders, 7.2% of Non-Violent Repeat Offenders, and 1.6% of Non-Violent First Offenders are assigned to close or maximum custody. As there are sound reasons for such placements, the inmate's current custody level is a factor that should be considered.

The remaining two risk-related items deal with institutional misconduct. The first is the number of major disciplinary violations by the inmate and the second the number of major violations of a violent nature. Our results show that 21,298=52.7% of inmates have one or more major violations on the record, and 8,497=21.0% one or more major violations of a violent nature. The fraction of inmates with a record of major misconduct varies from 64.8% for Violent Repeat Offenders, to 42.4% for Non-Violent Repeat Offenders, 39.1% for Violent First Offenders, and 12.4% for Non-Violent First Offenders. In turn, the percentage of inmates with a record of violent major misconduct varies from 30.1% for Violent Repeat Offenders, to 12.5% for

Violent First Offenders, 10.7% for Non-Violent Repeat Offenders, and 0.8% for Non-Violent First Offenders. Clearly, across the four inmate sub-populations, Non-Violent First Offenders have the most unblemished records while in custody. Given that major violent misconduct is a strong predictor of violent recidivism, it important to consider this factor in any screening of the inmate population.

**Table 28: Additional Risk Factor Profile of Major Inmate Sub-Populations (#)**

<b>Inmate Category</b>	<b>Violent Repeat Offender</b>	<b>Violent First Offender</b>	<b>Non-Violent Repeat Offender</b>	<b>Non-Violent First Offender</b>	<b>Grand Total</b>
<b>Total</b>	<b>22,265</b>	<b>4,192</b>	<b>11,631</b>	<b>2,343</b>	<b>40,431</b>
No Detainer	19,752	2,936	9,846	1,050	33,584
ICE or Felony Detainer	2,513	1,256	1,785	1,293	6,847
Felony Detainer	580	41	334	32	987
ICE Detainer	1,988	1,236	1,510	1,270	6,004
Foreign National	2,036	1,246	1,537	1,285	6,104
No Mandatory Sentence or Flat Term	16,213	2,801	9,375	1,924	30,313
Mandatory Sentence or Flat Term	6,052	1,391	2,256	419	10,118
No Gang Affiliation	15,333	3,724	9,840	2,274	31,171
Gang Affiliation	6,932	468	1,791	69	9,260
Street Gang	3,742	248	1,047	48	5,085
Prison Gang-Non-STG	802	28	327	7	1,164
Security Threat Group (STG)	2,388	192	417	14	3,011
Minimum Custody	5,983	1,019	8,148	2,115	17,265
Medium Custody	11,032	2,633	2,652	190	16,507
Close Custody	3,106	338	580	24	4,048
Maximum Custody	2,144	202	251	14	2,611
No Major Disciplinary Violations	7,834	2,551	6,696	2,052	19,133
One Major Disciplinary Violation	3,416	713	1,832	208	6,169
Two Major Disciplinary Violations	2,124	309	946	47	3,426
Three Major Disciplinary Violations	1,526	171	583	21	2,301
Four Major Disciplinary Violations	1,187	121	357	3	1,668
Five Major Disciplinary Violations	1,027	83	286	6	1,402
Six Major Disciplinary Violations	820	59	176	2	1,057
Seven Major Disciplinary Violations	628	44	149	1	822
Eight Major Disciplinary Violations	549	38	118	2	707
Nine Major Disciplinary Violations	447	16	83	0	546
Ten+ Major Disciplinary Violations	2,707	87	405	1	3,200
One+ Major Disciplinary Violations	14,431	1,641	4,935	291	21,298
Two+ Major Disciplinary Violations	11,015	928	3,103	83	15,129
Three+ Major Disciplinary Violations	8,891	619	2,157	36	11,703
No Major Violent Disciplinary Violations*	15,554	3,666	10,390	2,324	31,934
One Major Violent Disciplinary Violation	2,794	261	730	15	3,800
Two Major Violent Disciplinary Violations	1,434	110	244	2	1,790
Three Major Violent Disciplinary Violations	837	71	125	0	1,033
Four Major Violent Disciplinary Violations	542	36	56	2	636
Five+ Major Violent Disciplinary Violations	1,104	48	86	0	1,238
One+ Major Violent Disciplinary Violations	6,711	526	1,241	19	8,497
Two+ Major Violent Disciplinary Violations	3,917	265	511	4	4,697
Three+ Major Violent Disciplinary Violations	2,483	155	267	2	2,907

\*Violent disciplinary violations are violations that would constitute violent crimes if committed on the street, e.g., homicide, assault, threats, hostage taking, etc.



**Table 29: Additional Risk Factor Profile of Major Inmate Sub-Populations (%)**

<b>Inmate Category</b>	<b>Violent Repeat Offender</b>	<b>Violent First Offender</b>	<b>Non-Violent Repeat Offender</b>	<b>Non-Violent First Offender</b>	<b>Grand Total</b>
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
No Detainer	88.7%	70.0%	84.7%	44.8%	83.1%
ICE or Felony Detainer	11.3%	30.0%	15.3%	55.2%	16.9%
Felony Detainer	2.6%	1.0%	2.9%	1.4%	2.4%
ICE Detainer	8.9%	29.5%	13.0%	54.2%	14.8%
Foreign National	9.1%	29.7%	13.2%	54.8%	15.1%
No Mandatory Sentence or Flat Term	72.8%	66.8%	80.6%	82.1%	75.0%
Mandatory Sentence or Flat Term	27.2%	33.2%	19.4%	17.9%	25.0%
No Gang Affiliation	68.9%	88.8%	84.6%	97.1%	77.1%
Gang Affiliation	31.1%	11.2%	15.4%	2.9%	22.9%
Street Gang	16.8%	5.9%	9.0%	2.0%	12.6%
Prison Gang-Non-STG	3.6%	0.7%	2.8%	0.3%	2.9%
Security Threat Group (STG)	10.7%	4.6%	3.6%	0.6%	7.4%
Minimum Custody	26.9%	24.3%	70.1%	90.3%	42.7%
Medium Custody	49.5%	62.8%	22.8%	8.1%	40.8%
Close Custody	14.0%	8.1%	5.0%	1.0%	10.0%
Maximum Custody	9.6%	4.8%	2.2%	0.6%	6.5%
No Major Disciplinary Violations	35.2%	60.9%	57.6%	87.6%	47.3%
One Major Disciplinary Violation	15.3%	17.0%	15.8%	8.9%	15.3%
Two Major Disciplinary Violations	9.5%	7.4%	8.1%	2.0%	8.5%
Three Major Disciplinary Violations	6.9%	4.1%	5.0%	0.9%	5.7%
Four Major Disciplinary Violations	5.3%	2.9%	3.1%	0.1%	4.1%
Five Major Disciplinary Violations	4.6%	2.0%	2.5%	0.3%	3.5%
Six Major Disciplinary Violations	3.7%	1.4%	1.5%	0.1%	2.6%
Seven Major Disciplinary Violations	2.8%	1.0%	1.3%	0.0%	2.0%
Eight Major Disciplinary Violations	2.5%	0.9%	1.0%	0.1%	1.7%
Nine Major Disciplinary Violations	2.0%	0.4%	0.7%	0.0%	1.4%
Ten+ Major Disciplinary Violations	12.2%	2.1%	3.5%	0.0%	7.9%
One+ Major Disciplinary Violations	64.8%	39.1%	42.4%	12.4%	52.7%
Two+ Major Disciplinary Violations	49.5%	22.1%	26.7%	3.5%	37.4%
Three+ Major Disciplinary Violations	39.9%	14.8%	18.5%	1.5%	28.9%
No Major Violent Disciplinary Violations	69.9%	87.5%	89.3%	99.2%	79.0%
One Major Violent Disciplinary Violation	12.5%	6.2%	6.3%	0.6%	9.4%
Two Major Violent Disciplinary Violations	6.4%	2.6%	2.1%	0.1%	4.4%
Three Major Violent Disciplinary Violations	3.8%	1.7%	1.1%	0.0%	2.6%
Four Major Violent Disciplinary Violations	2.4%	0.9%	0.5%	0.1%	1.6%
Five+ Major Violent Disciplinary Violations	5.0%	1.1%	0.7%	0.0%	3.1%
One+ Major Violent Disciplinary Violations	30.1%	12.5%	10.7%	0.8%	21.0%
Two+ Major Violent Disciplinary Violations	17.6%	6.3%	4.4%	0.2%	11.6%
Three+ Major Violent Disciplinary Violations	11.2%	3.7%	2.3%	0.1%	7.2%

## Chapter 7: Non-Violent First Offenders-A Closer Look

Having identified the number of Non-Violent First Offenders in custody (2,343=5.8%), and having compared this group with the other three sub-populations in Chapter 6, it is now appropriate to take a closer look at this category of inmate. For one, there is the general issue of why an offender with these credentials would be given a prison sentence. Normally, Non-Violent First Offenders are granted probation. For another, there is the issue of what factors weigh for or against their early release from custody. While these two issues are definitely related, they differ with regard to one major thing. It may not be possible to identify why someone was committed to prison, but that does not necessarily make him/her a good prospect for early release. Substantially, after someone has entered the custody of the department, many things can happen, regardless of why the individual occupies a prison bed.

Circumstances may change; the offender may fail to adjust to prison life, may join a prison gang or a criminal street gang, and may even commit violent acts while imprisoned. Also, some Non-Violent First Offenders in custody have already been released and have since returned to custody as release violators. Even if none of these things have happened, the inmate may still end up in a close or maximum custody bed normally reserved for violent and repeat offenders. That usually indicates something is askew and dictates against the inmate being considered a good release risk. This is one reason why potential early release candidates are usually screened for custody level by the department before the numbers are sent across the street to the Governor's Office or the legislature. The point here is that a wider range of factors come into play when one is attempting to identify good risks for early release.

To begin, it is good to take a closer look at the offenses for which Non-Violent First Offenders are committed to custody. Obviously, none are of a violent nature, but the crimes may nonetheless tend toward the more serious side of things depending on the specific nature of the offense and its felony class. As a general rule of thumb, Class 1, 2 and 3 offenses are more serious than Class 4, 5 and 6 counterparts. Some Class 4-6 offenses, although less serious, are violent or sex crimes, and have been set aside. Similarly, some Class 2 and 3 offenses may be less serious than certain Class 4, 5 and 6 felonies. Thus, it is appropriate to look at both the A.R.S. description of the offense and the felony class, as shown on Table 30 on the next page.

The table shows that the vast majority of most serious current offenses for Non-Violent First Offenders are substance-abuse related (1,871=79.8%), including the top-three offenses of trafficking in marijuana (25.5%), trafficking in dangerous drugs (22.7%), and trafficking in narcotic drugs (13.7%). DUI follows, accounting for 12.6% of non-violent first offenders. The next most frequent offenses are theft of all classes (4.4%), burglary in the second degree (2.7%), and drug paraphernalia offenses (2.4%). 58.8% of Non-Violent First Offenders are Class 2 or 3 felons in line with the high incidence of drug trafficking in this group. *The fact that such a high percentage of Non-Violent First Offenders are drug traffickers makes it apparent that the fact of drug trafficking was a major factor in the commitments of these offenders. Consequently, drug trafficking should probably be considered a factor predisposing imprisonment.*

**Table 30: Most Serious Current Offense-Non-Violent First Offenders**

Most Serious Current Offense	Felony Class					Grand Total	
	2	3	4	5	6	#	%
Trafficking in Marijuana	82	337	155	10	14	598	25.5%
Trafficking in Dangerous Drugs	261	244	26			531	22.7%
Trafficking in Narcotic Drugs	136	125	59			320	13.7%
DUI			286	2	7	295	12.6%
Theft	10	24	17	5	46	102	4.4%
Burglary in the Second Degree		51	12		1	64	2.7%
Possession, Manufacture, etc. of Drug Paraphernalia			1		55	56	2.4%
Theft of Means of Transportation		38	8	2		48	2.0%
Possession of Dangerous Drugs			34	4		38	1.6%
Trafficking in Stolen Property	5	16	4	2	1	28	1.2%
Forgery			22	2	4	28	1.2%
Fraudulent Schemes and Artifices	20	6				26	1.1%
Burglary in the Third Degree			15	5	2	22	0.9%
Criminal Trespass in the First Degree					17	17	0.7%
Possession of Narcotic Drugs			11		4	15	0.6%
Unlawful Flight from Pursuing Law Enforcement Vehicle				10	3	13	0.6%
Possession of Burglary Tools					12	12	0.5%
Possession of Marijuana				1	11	12	0.5%
Smuggling			1	7	4	12	0.5%
Unlawful Use of Means of Transportation				3	9	12	0.5%
Criminal Possession of a Forgery Device					11	11	0.5%
Taking or Knowingly Accepting Identity of Another		1	7	2	1	11	0.5%
Criminal Damage			1	1	6	8	0.3%
Theft of a Credit Card or Obtaining a Credit Card by Fraud			1	3	3	7	0.3%
Criminal Impersonation					6	6	0.3%
Aggravated Taking of Identity of Another Person or Entity		3	1	1		5	0.2%
Illegal Control of or Illegally Conducting an Enterprise	1	4				5	0.2%
Wire or Electronic Communication in Drug Transactions			4	1		5	0.2%
Money Laundering		3		1		4	0.2%
Shoplifting			2	1		3	0.1%
Promoting Prison Contraband	1				2	3	0.1%
Resisting Arrest					3	3	0.1%
Unlawful Copying or Sale of Sounds or Images from Recording Devices		1	1		1	3	0.1%
Conducting a Chop Shop	2					2	0.1%
Escape in the Third Degree					2	2	0.1%
Failure to Stop: Accidents Involving Death or Personal Injuries		1	1			2	0.1%
Trafficking in the Identity of Another Person or Entity	2					2	0.1%
Abandonment or Concealment of a Dead Body				1		1	0.0%
Computer Tampering		1				1	0.0%
Fraud in Purchase or Sale of Securities			1			1	0.0%
Hindering Prosecution (including First Degree)		1		1		1	0.0%
Hoax					1	1	0.0%
Impersonating a Peace Officer			1			1	0.0%
Involving or Using Minors in Drug Offenses		1				1	0.0%
Obstructing Criminal Investigations or Prosecutions				1		1	0.0%
Prostitution					1	1	0.0%
Unlawful Failure to Return Rented or Leased Property					1	1	0.0%
Unlawful Use of Food Stamps					1	1	0.0%
<b>Grand Total</b>	<b>520</b>	<b>857</b>	<b>671</b>	<b>66</b>	<b>229</b>	<b>2,343</b>	<b>100.0%</b>
% of Total	22.2%	36.6%	28.6%	2.8%	9.8%	100.0%	

Table 31 below helps us make the following point. Although 2,563 inmates are committed to the department for drug possession as their most serious current offense (Table 1), the vast majority (95.3%) of these offenders are either violent or repeat offenders or both. Just 121 or 4.7% are Non-Violent First Offenders. *Certainly, Arizona prisons are not loaded with first-time non-violent offenders committed for drug possession.*

**Table 31: Most Serious Current Offense Category by Felony Class-Non-Violent First Offenders**

Most Serious Current Offense Category*	Felony Class					Grand Total	
	2	3	4	5	6	#	%
Drug Trafficking	479	707	244	11	14	1,455	62.1%
Property Offense	40	148	93	35	126	442	18.9%
DUI			286	2	7	295	12.6%
Drug Possession			46	5	70	121	5.2%
Escape or Related Offense	1	2	1	11	10	25	1.1%
Public Order/Morals Offense			1	2	2	5	0.2%
<b>Grand Total</b>	<b>520</b>	<b>857</b>	<b>671</b>	<b>66</b>	<b>229</b>	<b>2,343</b>	100.0%
% of Total	22.2%	36.6%	28.6%	2.8%	9.8%	100.0%	-

\*Based on the current offense with the highest felony class

One focus of the present study was to look at the kinds of special circumstances that might explain why Non-Violent First Offenders were committed or otherwise admitted to the custody of the department. Each of these factors was considered to offer a partial or complete explanation for the current imprisonment and thereby “predispose” the inmate to incarceration. This would include factors related to sentencing by the court, and those involving the return of the inmate to custody following a previous release. Obviously, these factors could not have come into play since the most recent admission to the department. For instance, institutional misconduct or assignment to a close or maximum custody bed would not explain the present incarceration. Sentencing-related and other “pre-admission” factors were separated into three categories:

#### Sentencing-Related and Other Pre-Admission Factors

##### 1. Factors that mandate a prison sentence:

- a. Conviction for felony DUI
- b. Conviction for drug trafficking where the amount of drugs exceeded the threshold amount, the drug involved was methamphetamine, or a minor was involved.

In the case of conviction for felony DUI, the offender may be given a regular prison sentence, but must serve a minimum of 4 to 8 months in prison. On the other hand, the most typical mandatory sentence for drug trafficking is 5 years.

##### 2. Factors that provide a procedural explanation but that do not constitute a mandate:

- a. Technical violation(s) of the conditions of probation
- b. Technical violation(s) of the conditions of ADC release supervision (parole)
- c. Return from deportation at 1/2 the sentence
- d. Return from escape

Technical probation and parole violations provide procedural explanations but not mandates for admission to custody. Return from deportation at 1/2 the sentence represents the end result of a failed attempt to transfer an undocumented alien back to his or her home country, which clearly explains the inmate's presence in a prison bed. Return from escape also provides a clear explanation for incarceration.

3. Other factors suggesting a higher than average probability of imprisonment:

- a. Current commitment for a Class 2 felony
- b. Current commitment for drug trafficking
- c. Current commitment for escape or a related offense
- d. Current sentence or TTBS of 4+ years, suggesting a more serious offense or circumstances surrounding the offense
- e. A prior probation term, i.e., for a misdemeanor or undesignated felony
- f. Current offenses committed on separate dates (suggesting repetitiveness)

These factors would generally indicate a more serious set of circumstances before the court than is generally the case with Non-Violent First Offenders, and thus would suggest a higher probability of imprisonment.

In addition to the issue of why Non-Violent First Offenders were sentenced to prison, there is also the issue of whether or not they constitute appropriate candidates for some kind of targeted early release program. Factors considered to address this issue include the following.

1. Post-admission justice system factors:

- a. An active Immigration and Customs Enforcement (ICE) detainer, suggesting that the inmate is an undocumented alien
- b. An active felony detainer indicating that new felony charges are pending
- c. Two (2) years or more remaining to be served on the current sentence(s)

2. Post-admission risk factors:

- a. Affiliation with a street gang, Security Threat Group (STG), or other prison gang
- b. A history of institutional violence
- c. Multiple major disciplinary violations
- d. Current assignment to close or maximum custody, indicating a security risk

Any one of these 19 factors was considered to be relevant to the current incarceration of the inmate and/or to his or her prospects for successful return to the community. Table 32 below identifies the specific applicability of each factor to the 2,343 Non-Violent First Offenders in custody. For instance, the table reveals the fact that 419 or 17.9% of Non-Violent First Offenders carry mandatory minimum sentences or "flat terms."

**Table 32: Screening Factors Applicable-Non-Violent First Offenders**

<b>Sentencing-Related &amp; Other Pre-Admission Screening Factors</b>	<b>Non-Violent First Offenders</b>	
	<b>#</b>	<b>%</b>
<u>Mandatory Term of Incarceration</u>	<u>419</u>	<u>17.9%</u>
Felony DUI	304	13.0%
Drug Trafficking (over threshold, etc.)	117	5.0%
<u>Factors Providing a Procedural Explanation</u>	<u>371</u>	<u>15.8%</u>
Technical Probation Violator	340	14.5%
Technical ADC Release Violator	39	1.7%
Return from Deportation at 1/2 Sentence	22	0.9%
Return from Escape	1	0.0%
<b>Mandatory Prison Term or Procedural Explanation</b>	<b>773</b>	<b>33.0%</b>
<u>Factors Suggesting a Higher Probability of Imprisonment</u>	<u>1,912</u>	<u>81.6%</u>
Current Commitment for Drug Trafficking	1,460	62.3%
Current Sentence or TTBS of 4+ Years	598	25.5%
Current Felonies Committed on Multiple Occasions	525	22.4%
Current Commitment for a Class 2 Felony	520	22.2%
A Prior Term of Probation (Misdemeanor/Undesignated Felony)	275	11.7%
Current Commitment for Escape or Related Offense	25	1.1%
<b>Any Pre-Admission Screening Factor</b>	<b>2,199</b>	<b>93.9%</b>
<b>Post-Admission Screening Factors</b>	<b>Non-Violent First Offenders</b>	
	<b>#</b>	<b>%</b>
<u>Post-Admission Justice System Factors</u>	<u>1,418</u>	<u>60.5%</u>
An Active ICE Detainer	1,270	54.2%
An Active Felony Detainer	32	1.4%
2+ Years Remaining-to-be-Served	438	18.7%
<u>Post-Admission Risk Factors</u>	<u>143</u>	<u>6.1%</u>
Multiple Incidents of Major Misconduct while Incarcerated	83	3.5%
Gang Affiliation	69	2.9%
Current Assignment to Close or Maximum Custody	37	1.6%
Violent Major Misconduct while Incarcerated	19	0.8%
<b>Any Post-Admission Factor</b>	<b>1,511</b>	<b>64.5%</b>
<b>Summary of Pre and Post Admission Screening Factors</b>	<b>Non-Violent First Offenders</b>	
	<b>#</b>	<b>%</b>
Mandatory Term of Incarceration	419	17.9%
Factor Providing a Procedural Explanation	371	15.8%
Mandatory Prison Term or Procedural Explanation	773	33.0%
Factor Suggesting a Higher Probability of Imprisonment	1,912	81.6%
Any Pre-Admission Factor	2,199	93.9%
Post-Admission Justice System Factor	1,418	60.5%
Post-Admission Risk Factor	143	6.1%
Any Post-Admission Factor	1,511	64.5%
<b>Any Pre or Post-Admission Screening Factor</b>	<b>2,278</b>	<b>97.2%</b>
No Pre or Post-Admission Factor Applicable	65	2.8%

Among pre-admission factors, current commitment for drug trafficking was the most common, accounting for 1,460 Non-Violent First Offenders. Similarly, among post-admission factors, the fact of an ICE detainer was the most common, accounting for 1,270. The fact that these two factors are the most common in their respective categories is not a coincidence, as 1,076 or 45.9% of Non-Violent First Offenders are drug traffickers with an active ICE detainer. This group constitutes 73.7% of all drug traffickers (1,460) and 84.7% of all inmates with ICE detainers (1,270). Clearly, among Non-Violent First Offenders, being a drug trafficker and having an ICE detainer go hand-in-hand. Drug traffickers with ICE detainers constitute the single most common category of Non-Violent First Offenders in custody.

While Table 32 does identify the specific applicability of each factor associated with the incarceration of Non-Violent First Offenders, it does not address the degree to which the 19 factors duplicate one another, nor does it indicate how many factors apply to individual inmates. Tables 33 and 34 below address those issues. Obviously, those we are the most interested in are inmates with one or more factors applicable. However, it is useful as well to know how many inmates had multiple factors in effect. Multi-factor applicability establishes that more than just one thing is associated with a given Non-Violent First Offender's presence in a prison bed.

Table 33 identifies how many Non-Violent First Offenders had any number of factors applicable among the listed types. It shows that 2,278=97.2% of Non-Violent First Offenders had at least one factor applicable, while 1,797=76.7% had two or more factors applicable. Thus, 77% of Non-Violent First Offenders have multiple factors associated with their presence in state prison beds, but only among the factors considered in this analysis. Let it be stated for the record that there may be other factors that we were not able to identify that might explain the presence of Non-Violent First Offenders in state prison beds. Also, it is possible and even likely that, in some cases, one or more of the factors we did identify did not play an active role in the incarceration of the inmate. The question remains as to which factors actually did play an active role.

**Table 33: Number of Screening Factors Applicable-Non-Violent First Offenders**

Number of Factors Applicable	Non-Violent First Offenders	
	#	%
None	65	2.8%
One	481	20.5%
Two	872	37.2%
Three	345	14.7%
Four	230	9.8%
Five	182	7.8%
Six	107	4.6%
Seven	48	2.0%
Eight	11	0.5%
Nine	2	0.1%
<b>Grand Total</b>	<b>2,343</b>	<b>100.0%</b>
One+	2,343	100.0%
Two+	2,278	97.2%
Three+	1,797	76.7%
Four+	925	39.5%

Clearly the fact that a large number of Non-Violent First Offenders exhibit a certain characteristic does not make that characteristic an active contributing factor to their present incarceration. We need to dig a little deeper to determine that fact. One way to approach this question is to determine in how many cases a given factor was the sole factor present for the inmate. If a large number of inmates exhibit a particular factor as the sole factor applicable, it is more likely that this factor was an active contributing factor. However, true applicability also depends on how frequent a factor is the single factor applicable among the total cases in which it is applicable. A factor may be applicable in many cases, but if it is the single factor applicable in a very small percentage of the cases where it is applicable, it is probably not a major contributing factor in most of those cases. Table 34 below identifies 1) for how many inmates each of the 19 factors considered was the sole or single factor applicable for the inmate, 2) the percentage of single factor cases in which that factor was the single factor applicable, and 3) the percentage of cases where the factor was applicable that it was the sole factor applicable (last column).

**Table 34: Single Factor Applicability-Non-Violent First Offenders**

Single Factor Applicable	Non-Violent First Offenders		Factor Total	% Single Factor
	#	% of Total		
Mandatory Minimum-Felony DUI	134	27.9%	304	44.1%
Current Commitment for Drug Trafficking	129	26.8%	1,460	8.8%
Technical Probation Violator	78	16.2%	340	22.9%
An Active ICE Detainer	67	13.9%	1,270	5.3%
Current Felonies Committed on Multiple Occasions	41	8.5%	525	7.8%
A Prior Term of Probation (Misdemeanor/Undesignated Felony)	15	3.1%	275	5.5%
Current Sentence or TTBS of 4+ Years	4	0.8%	598	0.7%
Current Commitment for a Class 2 Felony	3	0.6%	520	0.6%
2+ Years Remaining-to-be-Served	3	0.6%	438	0.7%
An Active Felony Detainer	2	0.4%	32	6.3%
Multiple Incidents of Major Misconduct while Incarcerated	2	0.4%	83	2.4%
Gang Affiliation	2	0.4%	69	2.9%
Current Commitment for Escape or Related Offense	1	0.2%	25	4.0%
Drug Trafficking (over threshold, etc.)	0	0.0%	115	0.0%
Technical ADC Release Violator	0	0.0%	39	0.0%
Current Assignment to Close or Maximum Custody	0	0.0%	37	0.0%
Return from Deportation at 1/2 Sentence	0	0.0%	22	0.0%
Violent Major Misconduct while Incarcerated	0	0.0%	19	0.0%
Return from Escape	0	0.0%	1	0.0%
<b>Total Single Factor Applicability</b>	<b>481</b>	<b>100.0%</b>	<b>2,278</b>	<b>21.1%</b>

The results show that the mandatory minimum or flat term for felony DUI was the single factor applicable in 27.9% of cases of single factor applicability (481), and was also the single factor applicable in 44.1% of the cases where it was applicable (304). In other words, as one might expect, the mandatory minimum for felony DUI is the factor most likely to be an active contributing factor to the incarceration of the inmate. For the most part, this goes without saying, given that the sentence to custody is mandatory in such cases. Although the end result is the same for Non-Violent First Offenders with the mandatory minimum for drug trafficking, how we get there is dramatically different.



Not only are there no cases where the mandatory minimum for drug trafficking is the single factor applicable, but also the minimum number of factors applicable in such cases is three (3) and that was for just two inmates. This suggests that the mandatory minimum for drug trafficking is normally applied to offenders highly likely to be incarcerated regardless of whether or not a mandatory sentence was imposed. The same clearly cannot be said for felony DUI.

Commitment as a technical probation violator was the single factor applicable in 78 or 16.2% of the 481 cases of single factor applicability, and was the single factor applicable in 22.9% of the cases where it was applicable, making it the third most likely contributing factor—after the two types of mandatory sentences. A current commitment for drug trafficking is next in line, being the single factor applicable in 26.8% of cases of single factor applicability and being the single factor applicable in 8.8% of the cases where it was applicable.

Most of the other factors were not the single factor applicable in very many cases because they tend to co-occur. For instance, being a gang member and having a history of institutional violence tend to co-occur; hence these factors will not distinguish themselves as far as single factor applicability is concerned. Nonetheless, they should be taken into account in any screening of Non-Violent First Offenders. What we do know for sure is that 65 inmates exhibited none of the 19 factors considered in this analysis. These inmates demonstrate no apparent reason for their current imprisonment.

As far as the single factor analysis is concerned, one possible implication is that the offender may not be in custody if that factor was not present. In the case of felony DUI, that is probably a good supposition. It seems likely that if there was no mandatory penalty for felony DUI, then many of these inmates, being first felony offenders convicted of a less serious crime, would be granted probation. Certainly, technical probation violators would not be in prison had they not violated probation. ***This is most evident in the case of the 121 Non-Violent First Offenders committed for drug possession as their most serious current offense. Study results show that 78 or 64.4% of these inmates were committed as technical probation violators. Of the remaining 43, 22 had ICE detainers on file, an additional 11 committed current offenses on multiple dates, and one (1) was a technical ADC release violator. This leaves just nine (9) drug possession cases with no screening factor applicable.***

Regarding those 65 inmates with no factor applicable, 22=33.8% were found to lack intake information used to code criminal history.<sup>1</sup> It is possible that some or all of these 22 inmates have prior felony records that went undetected. Of the total of 65, 55 or 84.6% are property offenders (18 being Class 3 felons), with all but one of the remaining 10 being in prison for drug possession. It is possible and perhaps even likely that these 10 inmates were originally charged with drug trafficking and pled to the lesser offense of drug possession. Regarding the remaining inmate, he was committed for abandonment or concealment of a dead body, for which he received the highest penalty allowed by law.

---

<sup>1</sup> Overall, 860 or 36.7% of Non-Violent First Offenders had missing criminal history data in one or more categories. Due to time constraints, no attempt was made to examine criminal history records for these inmates.

## Chapter 8: Gangs and Violence

Gang-related criminal activity has constituted a serious on-going problem for criminal justice agencies across the state. This has included the activities of both prison and street gangs, and has elicited a wide range of responses from both the legislature and the criminal justice community. In an effort to curb the activities of criminal street gangs, the legislature enacted A.R.S. §13-2321: Participating in or Assisting a Criminal Street Gang. In addition, a variety of statutory provisions allow harsher penalties for crimes associated with street gang activity. These provisions were enacted in part due to the relocation of many street gang members to Arizona to avoid the harsh penalties associated with California's "Three Strikes" law. The Crips and Bloods, two primarily African American gangs, are perhaps the best known, but many others have taken root in this state as well.

In addition to legislative action, criminal justice agencies across the state have acted both individually and in tandem to curtail the often-violent activities of criminal street gangs and prison gangs in Arizona. The Violent Street Gang Task Force constitutes a collaboration of the FBI with a number of criminal justice agencies across the state, including the Department of Corrections, the Department of Public Safety, the Maricopa County Attorney's Office and several law enforcement agencies. The Gang and Immigration intelligence Team Enforcement Mission (GIITEM) in the Department of Public Safety acts to provide gang and illegal immigration enforcement and intelligence services that have helped stem the tide of gang activity. In addition, the Department of Corrections implemented its Security Threat Group (STG) program in 1994 to curb the violent and disruptive activities of gangs in Arizona prisons. A report to the National Institute of Justice in 2001 documented that the STG program had reduced the level of violence by validated STG members by as much as 50% by isolating them in the department's most secure unit at the Eyman Prison Complex.<sup>1</sup> The STG program continues to operate in all state prisons to identify STG and other gang members and to help control the level of threat they pose to the safe and secure operation of state prisons.

Historically, gangs across the country have used violence and intimidation to facilitate the illegal operations of the gang, and Arizona is no exception. Many of the most active prison gangs from California and other states, such as the Aryan Brotherhood and the Mexican Mafia, have an active membership in Arizona prisons. In addition, Arizona has several home-grown prison gangs, as well as literally hundreds of street gangs currently operating within the state's borders and within the walls of Arizona prisons. In this chapter of the report, we take a close look at the relationship between gangs and violence in the Arizona prison system and demonstrate the extent to which violent gang activities in prison represent the continuation of previous violent acts committed on the streets of Arizona. It will be demonstrated conclusively that both prison and street gang members in Arizona prisons show much higher levels of violence both on the street and while in custody system than do other inmates.

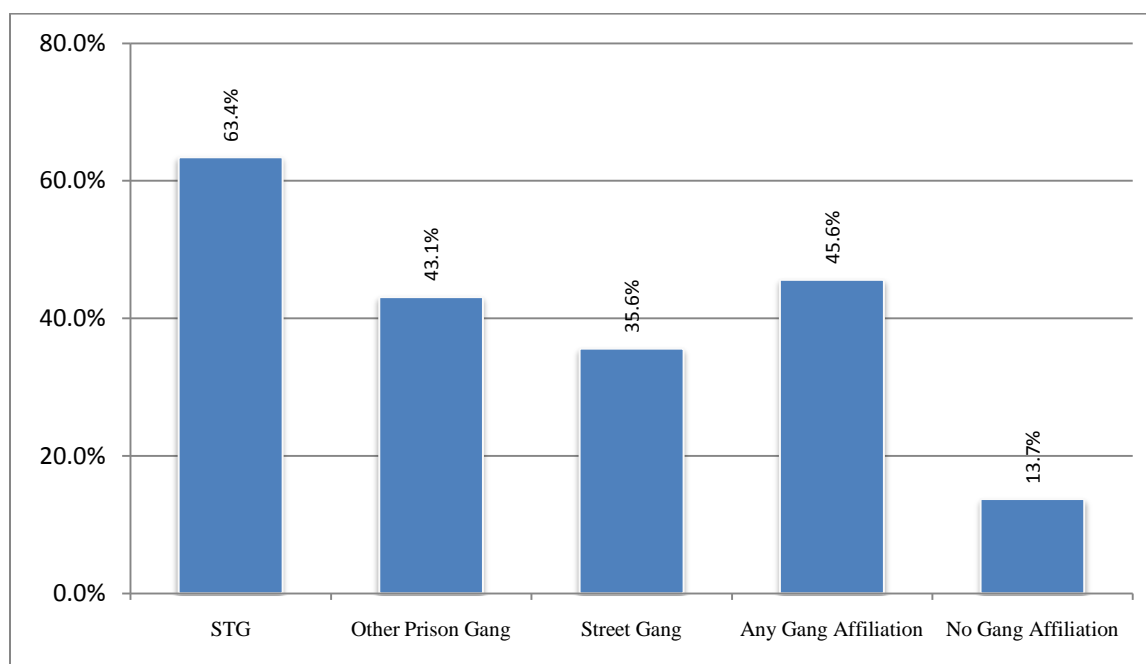
We begin with a look at the relationship between gang membership and prison violence. As indicated in Figure 21 below, 45.6% of the 9,260 gang members in ADC custody have a history

---

<sup>1</sup> Security Threat Group (STG) Program Evaluation, Final Report to The National Institute of Justice, Arizona Department of Corrections, December 2001.

of institutional violence in comparison to 13.7% of the 31,171 non-gang members in custody. This percentage varies from 35.6% for street gang members, to 43.1% for non-STG prison gang members, to 63.4% for STG members. Clearly, prison gang members are more violence-prone in prison than are street gang members, but the latter are still far more violent in prison than are non-gang members. STG members have the most violent institutional records of all, thus validating the certification of these gangs by the department as Security Threat Groups. In the order of the size of their known memberships in Arizona prisons, STGs include: the New Mexican Mafia (1,051), the Aryan Brotherhood (603), the Surenos (478), the Border Brothers (309), Grandel (202), Dine Pride (139), the Warrior Society (132), African Mau Mau (87), and the Old Mexican Mafia (33). Non-STG prison gangs with the largest memberships in Arizona prisons are White Supremacist (471), the Peckerwoods (353), and the Skinheads (228). Among the many street gangs with members in Arizona prisons, the Crips, the Bloods and Wetback Power have the largest memberships, but these gangs are not as tightly organized in the prison system due to their geographic diversity on the street.

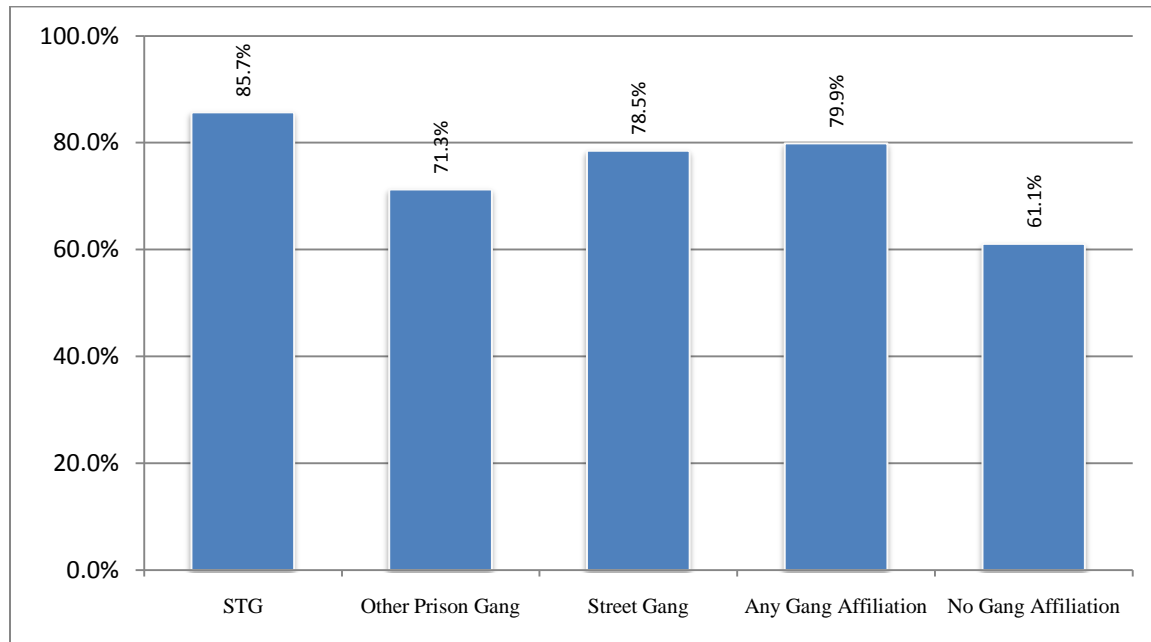
**Figure 21: History of Institutional Violence by Gang Affiliation**



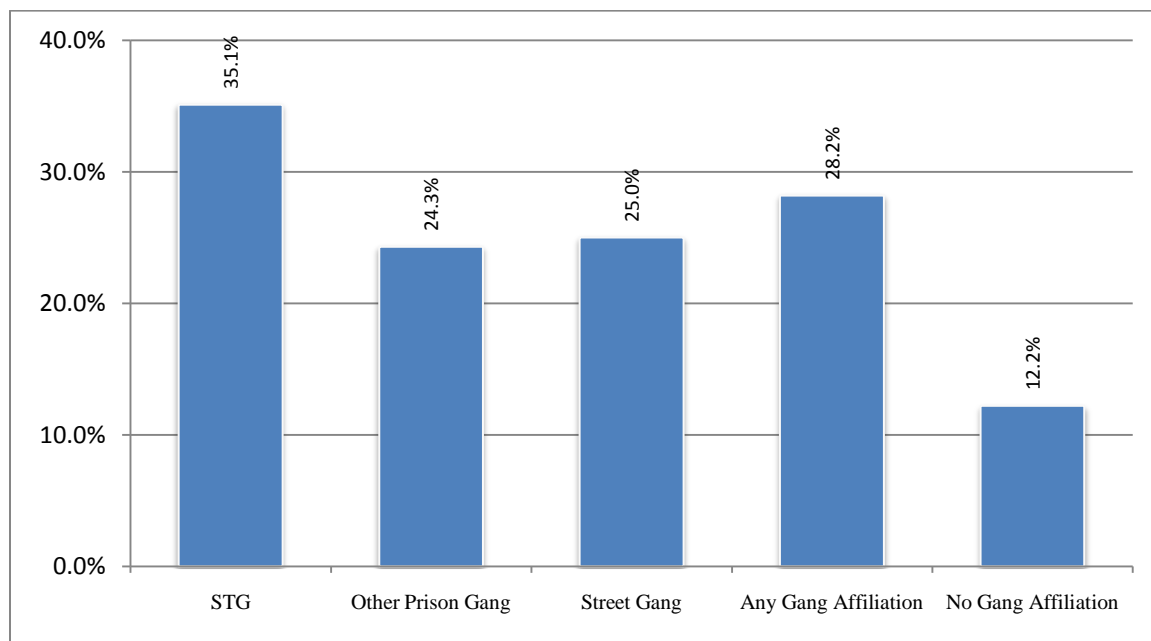
In addition to their involvement in prison violence, gang members are also more likely to be violent in the community. From Figure 22, we can see that 79.9% of gang members have a history of felony violence in comparison to 61.1% of non-gang members. As was true with prison violence, the most street violence is recorded by STG members (85.7%), with street gang members next at 78.5%. The most striking differences, however, are in terms of the percentage of inmates with repetitive violence, i.e., those with both current and prior violent offenses.

Figure 23 shows that STG members (35.1%) are almost three times as likely as non-gang members (12.2%) to have such a history, while members of the other two gang groups are about twice as likely (24.3% and 25.0%).

**Figure 22: Current or Prior Felony Violence by Gang Affiliation**

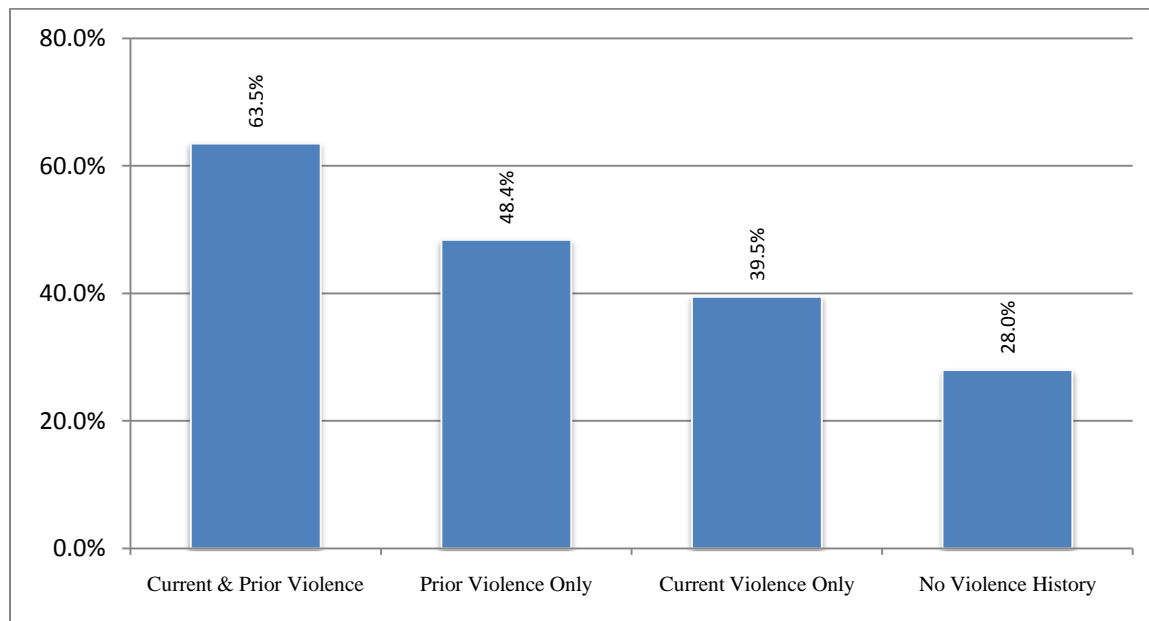


**Figure 23: Current and Prior Felony Violence by Gang Affiliation**

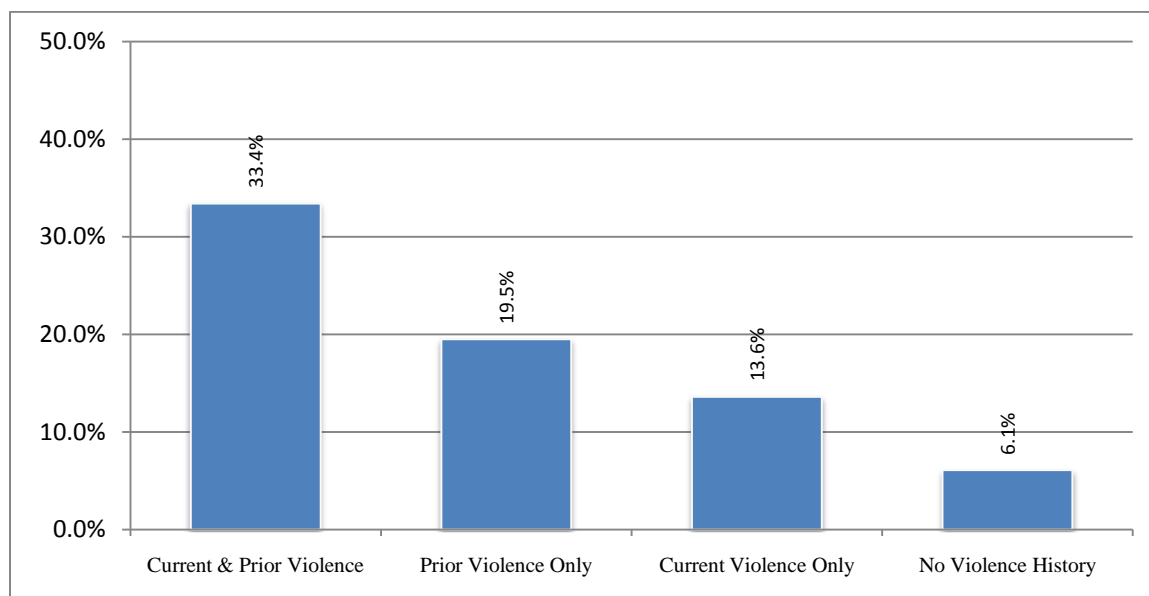


Figures 24 and 25 go a step further by demonstrating that, among gang members and non-gang members alike, those with a history of repetitive street violence are the most likely to be violent in prison. Further, those with current or prior violence but not both are more likely to be violent in prison than those with no history of violence. These results establish that, when it comes to both gang-related and non-gang-related violence, street violence predicts institutional violence.

**Figure 24: History of Institutional Violence by History of Street Violence-Gang Members**



**Figure 25: History of Institutional Violence by History of Street Violence-Non-Gang Members**



The two figures show identical results, only on a lesser scale for non-gang members. Namely, more violence in the community breeds more violence in prison, regardless of one's membership in a prison or street gang. However, the degree of violence involved is on a greater scale for gang members. They are more likely to be in prison for violent crimes, are more likely to have violent priors, and are more likely to be violent in prison. However, gang members are also more likely to be violent in prison for any given level of violence in the community. This is what sets gang members apart from other inmates when it comes to security requirements.

Tables 35 and 36 below provide the data from which Figures 22-25 were developed. Table 35 shows the number and percentage of inmates with any given history of street violence and any particular gang affiliation. Table 36 shows the number and percentage of inmates with any given history of street violence and any type of gang affiliation who have a history of prison violence. Together, they provide a comprehensive gang-related violence profile for the Arizona prison population.

**Table 35: History of Street Violence by Gang Affiliation**

<b>History of Street Violence</b>	<b>STG</b>	<b>Non-STG Prison Gang</b>	<b>Street Gang</b>	<b>No Gang Affiliation</b>	<b>Grand Total</b>	<b>Any Gang Affiliation</b>
Current & Prior Violence	1,058	283	1,271	3,812	6,424	2,612
Prior Violence Only	467	275	963	3,479	5,184	1,705
Current Violence Only	1,055	272	1,756	11,766	14,849	3,083
None	431	334	1,095	12,114	13,974	1,863
<b>Grand Total</b>	<b>3,011</b>	<b>1,164</b>	<b>5,085</b>	<b>31,171</b>	<b>40,431</b>	<b>9,260</b>
Current or Prior Violence	2,580	830	3,990	19,057	26,457	7,400
Current Violence	2,113	555	3,027	15,578	21,273	5,695
Prior Violence	1,525	558	2,234	7,291	11,608	4,317

<b>History of Violence</b>	<b>STG</b>	<b>Non-STG Prison Gang</b>	<b>Street Gang</b>	<b>No Gang Affiliation</b>	<b>Grand Total</b>	<b>Any Gang Affiliation</b>
Current & Prior Violence	35.1%	24.3%	25.0%	12.2%	15.9%	28.2%
Prior Violence Only	15.5%	23.6%	18.9%	11.2%	12.8%	18.4%
Current Violence Only	35.0%	23.4%	34.5%	37.7%	36.7%	33.3%
None	14.3%	28.7%	21.5%	38.9%	34.6%	20.1%
<b>Grand Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
Current or Prior Violence	85.7%	71.3%	78.5%	61.1%	65.4%	79.9%
Current Violence	70.2%	47.7%	59.5%	50.0%	52.6%	61.5%
Prior Violence	50.6%	47.9%	43.9%	23.4%	28.7%	46.6%

**Table 36: Institutional Violence by History of Street Violence and Gang Affiliation\***

<b>History of Street Violence</b>	<b>STG</b>	<b>Non-STG Prison Gang</b>	<b>Street Gang</b>	<b>No Gang Affiliation</b>	<b>Grand Total</b>	<b>Any Gang Affiliation</b>
Current & Prior Violence	818	170	665	1,249	2,902	1,653
Prior Violence Only	284	128	412	677	1,501	824
Current Violence Only	621	110	490	1,611	2,832	1,221
None	185	94	242	741	1,262	521
<b>Grand Total</b>	<b>1,908</b>	<b>502</b>	<b>1,809</b>	<b>4,278</b>	<b>8,497</b>	<b>4,219</b>
Current or Prior Violence	1,723	408	1,567	3,537	7,235	3,698
Current Violence	1,439	280	1,155	2,860	5,734	2,874
Prior Violence	1,102	298	1,077	1,926	4,403	2,477

<b>History of Violence</b>	<b>STG</b>	<b>Non-STG Prison Gang</b>	<b>Street Gang</b>	<b>No Gang Affiliation</b>	<b>Grand Total</b>	<b>Any Gang Affiliation</b>
Current & Prior Violence	77.6%	60.1%	52.4%	33.4%	45.7%	63.5%
Prior Violence Only	60.8%	46.5%	42.9%	19.5%	29.0%	48.4%
Current Violence Only	58.6%	40.4%	27.9%	13.6%	19.0%	39.5%
None	42.9%	28.1%	22.0%	6.1%	9.0%	28.0%
<b>Grand Total</b>	<b>63.4%</b>	<b>43.1%</b>	<b>35.6%</b>	<b>13.7%</b>	<b>21.0%</b>	<b>45.6%</b>
Current or Prior Violence	66.8%	49.2%	39.3%	18.6%	27.4%	50.0%
Current Violence	68.1%	50.5%	38.2%	18.4%	27.0%	50.5%
Prior Violence	72.5%	53.4%	48.3%	26.7%	38.2%	57.5%

\*Number and percentage of inmates with a history of institutional violence

Table 35 shows that 46.6% of gang members have a prior history of felony violence. That is double the percentage of non-gang members who have such a history (23.4%). However, gang members' criminal activities are not limited to violence; they have more extensive criminal histories across-the-board than do non-gang members. Table 37 below reveals that 94.2% of gang members and 80.8% of non-gang members have prior felonies.

**Table 37: Number of Prior Felonies by Gang Affiliation**

<b>Prior Felonies</b>	<b>STG</b>	<b>Non-STG Prison Gang</b>	<b>Street Gang</b>	<b>No Gang Affiliation</b>	<b>Grand Total</b>	<b>Any Gang Affiliation</b>
None	206	35	296	5,998	6,535	537
One	503	133	1,131	9,490	11,257	1,767
Two	389	154	641	4,554	5,738	1,184
Three or More	1,913	842	3,017	11,129	16,901	5,772
<b>Grand Total</b>	<b>3,011</b>	<b>1,164</b>	<b>5,085</b>	<b>31,171</b>	<b>40,431</b>	<b>9,260</b>
One or More	2,805	1,129	4,789	25,173	33,896	8,723
Average (Mean)	4.47	4.92	4.11	2.55	2.96	4.33

**Table 37: Number of Prior Felonies by Gang Affiliation (continued)**

Prior Felonies	STG	Non-STG Prison Gang	Street Gang	No Gang Affiliation	Grand Total	Any Gang Affiliation
None	6.8%	3.0%	5.8%	19.2%	16.2%	5.8%
One	16.7%	11.4%	22.2%	30.4%	27.8%	19.1%
Two	12.9%	13.2%	12.6%	14.6%	14.2%	12.8%
Three or More	63.5%	72.3%	59.3%	35.7%	41.8%	62.3%
<b>Grand Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
One or More	93.2%	97.0%	94.2%	80.8%	83.8%	94.2%

The real difference, however, comes in the terms of the number of prior felonies. An astonishing 62.3% of gang members have three or more prior felonies, far exceeding the comparable percentage for non-gang members (35.7%). Gang members average 70.0% more priors than non-gang members (4.33 to 2.55).

**Table 38: Gang Affiliation by Most Serious Current Offense Category\***

Most Serious Current Offense Category	STG	Non-STG Prison Gang	Street Gang	No Gang Affiliation	Grand Total	Any Gang Affiliation
Violent Offense	1,610	375	2,450	9,029	13,464	4,435
Sex Offense	61	28	157	3,654	3,900	246
Property Offense	608	414	1,224	7,160	9,406	2,246
Drug Trafficking	201	124	514	5,158	5,997	839
Drug Possession	123	107	351	1,981	2,562	581
DUI	72	44	162	2,556	2,834	278
Escape or Related Offense	64	29	132	445	670	225
Public Order/Morals Offense	2	1	4	44	51	7
<b>Grand Total</b>	<b>2,741</b>	<b>1,122</b>	<b>4,994</b>	<b>30,027</b>	<b>38,884</b>	<b>8,857</b>

**Table 39: Average TTBS by Gang Affiliation by Most Serious Current Offense Category\***

Most Serious Current Offense Category	STG	Non-STG Prison Gang	Street Gang	No Gang Affiliation	Grand Total	Any Gang Affiliation
Violent Offense	12.35	9.19	7.90	8.59	8.93	9.62
Sex Offense	17.82	17.18	11.11	16.03	15.87	13.46
Property Offense	5.65	5.23	4.38	4.18	4.35	4.88
Drug Trafficking	7.25	6.56	5.07	4.37	4.57	5.81
Drug Possession	2.89	3.05	2.34	2.12	2.22	2.59
DUI	3.96	3.46	3.13	3.00	3.04	3.40
Escape or Related Offense	6.80	6.67	3.52	3.49	3.95	4.86
Public Order/Morals Offense	2.04	1.83	1.99	1.54	1.60	1.98
<b>Grand Total</b>	<b>9.83</b>	<b>6.76</b>	<b>6.18</b>	<b>6.73</b>	<b>6.88</b>	<b>7.38</b>

\*Inmates serving a term of years

Table 38 and 39 above demonstrate that the sentences being served are longer on average for prison gang members than for non-gang members committing the same types of crimes, and



especially so for STG members committed for violent crimes (12.35 years to 8.59 years). However, despite their much more extensive and violent criminal histories, the overall average TTBS (time-to-be-served) for gang members (7.38) is less than 10% greater than the comparable average for non-gang members (6.73). This is due primarily to the impact of street gang member sentences on the overall gang average. When street gang members are factored out, the difference is much greater; 8.93 to 6.73 or 32.7%. Overall, gang members serve an average of 10 months more than non-gang members convicted of the same types of crimes.

## Chapter 9: Special Inmate Populations

In addition to the above, the study took a look at various special populations of inmates that are of interest with regard to the general issue of sentencing policy and the use of scarce resources in the state prison system. Generally speaking, the issue is whether or not there are alternatives to state-level incarceration that would be suitable for these special populations. In large part, this determination concerns the extent to which the members of the group have histories of violence or prior felony records that would make them inappropriate for special consideration. However, it is only possible to make judgments of this kind if the numbers are available on the sizes of these groups. It is to this end that the following results are provided:

The information immediately below concerns the category of the most serious current committing offense. Particularly, inmates committed for property offenses, drug possession and DUI have occasionally been discussed as possibilities for alternatives to incarceration.

The following provides a general profile of these inmates.

1. Inmates Committed for Drug Possession:
  - a. 2,563=6.3% of inmates are committed for drug possession
  - b. 976=38.0% have a history of felony violence
  - c. 2,436=95.0% have prior felonies
  - d. 2,442=95.3% are violent or repeat offenders
  - e. 121=4.7% are Non-Violent First Offenders
  - f. 78=64.4% of the 121 Non-Violent First Offenders are technical probation violators
2. Inmates Committed for Property Offenses:
  - a. 9,408=23.3% of inmates are committed for property offenses
  - b. 3,304=35.1% have a history of felony violence
  - c. 8,934=95.0% have prior felonies
  - d. 8,965=95.3% are violent or repeat offenders
  - e. 442=4.7% are Non-Violent First Offenders
  - f. 156=35.3% of the 442 Non-Violent First Offenders are technical probation violators
3. Inmates Committed for DUI:
  - a. 2,834=7.0% of inmates are committed for felony DUI
  - b. 1,128=39.8% have a history of felony violence
  - c. 2,521=89.0% have prior felonies
  - d. 2,131=83.1% have misdemeanor convictions
  - e. 2,539=89.6% are violent or repeat felony offenders
  - f. 295=10.4% are Non-Violent First Offenders

There has also been discussion and even legislation drafted that would address the issue of inmates with sentences of 1 year or less. In many states, inmates with sentences of a year or less are committed to county jails. The following provides an overview of this population.

1. Inmates Committed with a Time-to-be-Served of 1 Year or Less (see Table 40):

- a. 2,105=5.2% of inmates are committed with a sentence of 1 year or less
- b. 758=36.0% have a history of felony violence
- c. 1,531=72.7% have prior felonies
- d. 1,635=77.7% are violent or repeat felony offenders
- e. 470=22.3% are Non-Violent First Offenders
- f. 436=20.7% are committed for DUI

2. Inmates Committed for DUI with a Sentence of 1 Year or Less:

- a. 436=15.4% of DUI inmates are committed with a sentence of 1 year or less
- b. 334 or 76.6% carry the mandatory flat term of 4-8 months
- c. 73=16.7% have a history of felony violence
- d. 213=48.9% have prior felonies
- e. 218=50.0% are violent or repeat felony offenders
- f. 218=50.0% are Non-Violent First Offenders

The following concerns inmates committed to custody as ***technical probation violators***. This is another special population that has occasionally been discussed as a possibility for alternatives to incarceration. The thinking on this is that it may be preferable not to expose these offenders to the negative influences of hardened criminals if there is a suitable alternative available. Unfortunately, the numbers show that most of these offenders are violent or repeat offenders. In fact, a higher percentage of technical probation violators have prior ADC commitments (46.0%) than do other inmates (44.1%).

1. Most Serious Current Offense (see Table 41):

- a. 3,780=9.3% of inmates were committed as technical probation violators
- b. 810=21.4% were committed for a violent crime
- c. 573=15.2% were committed for a sex crime
- d. 879=23.3% were committed for a property crime
- e. 443=11.7% were committed for drug trafficking
- f. 479=12.7% were committed for drug possession
- g. 522=13.8% were committed for DUI
- h. 66=1.7% were committed for escape or a related offense
- i. 8=0.2% were committed for a public order/morals offense

2. Criminal and Violence History:

- a. 1,995=52.5% have a history of felony violence
- b. 3,137=83.0% have prior felonies
- c. 2,529=67.0% have misdemeanor convictions
- d. 3,440=91.0% are violent or repeat offenders
- e. 340=9.0% are Non-Violent First Offenders

**Table 40: Most Serious Current Committing Offense-Inmates Serving 1 Year or Less**

Most Serious Current Committing Offense*	Felony Class			Grand Total	
	4	5	6	#	%
DUI	412	1	23	436	20.7%
Possession, Manufacture, etc. of Drug Paraphernalia			372	372	17.7%
Aggravated Assault	4	9	137	150	7.1%
Theft	4	8	137	149	7.1%
Possession of Marijuana			140	140	6.7%
Endangerment			64	64	3.0%
Trafficking in Marijuana	30	4	24	58	2.8%
Criminal Possession of a Forgery Device			55	55	2.6%
Possession of Burglary Tools			54	54	2.6%
Criminal Trespass in the First Degree			50	50	2.4%
Unlawful Use of Means of Transportation		6	42	48	2.3%
Disorderly Conduct (Reckless Use of Weapon)			41	41	1.9%
Criminal Impersonation			33	33	1.6%
Possession of Narcotic Drugs	7	5	20	32	1.5%
Resisting Arrest			32	32	1.5%
Misconduct Involving Weapons	9	3	13	25	1.2%
Unlawful Flight from Pursuing Law Enforcement Vehicle	1	18	5	24	1.1%
Forgery	4	9	10	23	1.1%
Possession of Dangerous Drugs	9	11	3	23	1.1%
Criminal Damage		1	20	21	1.0%
Aggravated Domestic Violence		6	13	19	0.9%
Theft of Credit Card-Obtaining Credit Card by Fraud		9	10	19	0.9%
Child or Vulnerable Adult Abuse		3	13	16	0.8%
Trafficking in Narcotic Drugs	13		3	16	0.8%
Burglary in the Third Degree	2	4	9	15	0.7%
Sex Offender Registration Violation	6	3	5	14	0.7%
Smuggling		5	8	13	0.6%
Shoplifting	2	2	7	11	0.5%
Identity Theft	3	3	5	11	0.5%
Criminal Simulation			9	9	0.4%
Sexual Conduct with a Minor			9	9	0.4%
Burglary in the Second Degree	2		5	7	0.3%
Prostitution		2	5	7	0.3%
Trafficking in Stolen Property		1	6	7	0.3%
Aggravated Harassment		2	4	6	0.3%
Aggravated Robbery	1		5	6	0.3%
Robbery	1	2	3	6	0.3%
Theft of Means of Transportation	5		1	6	0.3%
Unlawful Imprisonment			6	6	0.3%
Escape in the Second Degree		4	1	5	0.2%
Hindering Prosecution in the First Degree		3	2	5	0.2%
Other Violent Offenses	2	3	9	14	0.7%
Other Sex Offenses	0	0	5	5	0.2%
Other Property Offenses	2	3	14	19	0.9%
Other Drug Trafficking Offenses	3	0	1	4	0.2%
Other Drug Possession Offenses	0	1	0	1	0.0%
Other Escape or Related Offenses	0	3	6	9	0.4%
Other Public Order/Morals Offenses	0	1	9	10	0.5%
<b>Grand Total</b>	<b>522</b>	<b>135</b>	<b>1,448</b>	<b>2,105</b>	<b>100.0%</b>
% of Total	24.8%	6.4%	68.8%	100.0%	

**Table 41: Most Serious Current Committing Offense-Technical Probation Violators**

Most Serious Current Committing Offense	Felony Class					Grand Total	
	2	3	4	5	6	#	%
DUI			505	4	13	522	13.8%
Aggravated Assault	10	218	46	9	65	348	9.2%
Molestation of a Child	15	200	1		1	217	5.7%
Sexual Conduct with a Minor	23	158	2	1	7	191	5.1%
Trafficking in Dangerous Drugs	134	43	8			185	4.9%
Possession, Manuf., etc. of Drug Paraphernalia					182	182	4.8%
Trafficking in Narcotic Drugs	114	37	26		1	178	4.7%
Theft of Means of Transportation		154	15			169	4.5%
Possession of Dangerous Drugs			156	6	2	164	4.3%
Theft	6	44	14	5	67	136	3.6%
Burglary in the Second Degree		103	13		1	117	3.1%
Armed Robbery	87	17	1			105	2.8%
Forgery			85	7	2	94	2.5%
Possession of Narcotic Drugs			54	6	19	79	2.1%
Trafficking in Marijuana	18	33	18		4	73	1.9%
Misconduct Involving Weapons			59	2	5	66	1.7%
Sex Offender Registration Violation			55	3	2	60	1.6%
Burglary in the Third Degree			47	9	4	60	1.6%
Trafficking in Stolen Property	12	36	8	1		57	1.5%
Possession of Marijuana				1	53	54	1.4%
Fraudulent Schemes and Artifices	40	9		1	1	51	1.3%
Endangerment					41	41	1.1%
Unlawful Use of Means of Transportation				19	22	41	1.1%
Child or Vulnerable Adult Abuse	3	6	15	6	8	38	1.0%
Kidnapping	24	10		1		35	0.9%
Robbery			25	7	1	33	0.9%
Sexual Abuse		24	3	2	1	30	0.8%
Sexual Assault		24				24	0.6%
Unlawful Flight from Pursuing Law Enf. Vehicle				19	4	23	0.6%
Aggravated Robbery		13	8		2	23	0.6%
Criminal Trespass in the First Degree					22	22	0.6%
Identity Theft		1	14	3	2	20	0.5%
Possession of Burglary Tools					20	20	0.5%
Criminal Damage			4	3	12	19	0.5%
Sexual Exploitation of a Minor	4	15				19	0.5%
Burglary in the First Degree	14	5				19	0.5%
Aggravated Domestic Violence				9	9	18	0.5%
Disorderly Conduct (Reckless Use of Weapon)					18	18	0.5%
Shoplifting			12		4	16	0.4%
Manslaughter	12	1				13	0.3%
Other Violent Offenses	30	10	8	2	32	82	2.2%
Other Sex Offenses	3	12	1	1	2	19	0.5%
Other Property Offenses	2	17	3	7	15	44	1.2%
Other Drug Trafficking	0	3	3	1	0	7	0.2%
Other Drug Possession	0	0	0	0	0	0	0.0%
Other Escape or Related Offense	5	6	2	4	17	34	0.9%
Other Public Order/Morals Offense	0	1	0	6	7	14	0.4%
<b>Grand Total</b>	<b>556</b>	<b>1,200</b>	<b>1,211</b>	<b>145</b>	<b>668</b>	<b>3,780</b>	<b>100.0%</b>
% of Total	14.7%	31.7%	32.0%	3.8%	17.7%	100.0%	-

## **Chapter 10: Summary of Findings**

This report from the Arizona Prosecuting Attorneys' Advisory Council provides perhaps the most in-depth profile of the Arizona prison population ever attempted. As the result of unrelenting growth in the prison population, the budget of the Department of Corrections has reached a record \$1 billion, or about 12% of total state appropriations for 2010. In the face of a serious economic downturn and with severe fiscal pressures being brought to bear on the State of Arizona, it is vital to understand what taxpayers are getting back in return for the current fiscal investment in the department. In Chapter 1, evidence is presented to support the conclusion of a favorable impact on crime of a rising incarceration rate over the period 1995-2008. Over this 14-year stretch, as the prison population climbed steadily upwards--and by 82.3% overall, the crime rate dropped by 42.3%.

While one would expect the prison population to fall as crime falls, just the reverse came to pass. The natural conclusion is that locking up more convicted felons has had a favorable effect on serious crime. However, this only works if the right criminals are incarcerated, i.e., those who commit the most crimes. Given the findings of the Rand Corporation and others that active offenders commit many more crimes than they are convicted of, it is likely that incapacitating repetitive offenders works to reduce crime. Accordingly, one of the primary goals of the present study was to determine how many Arizona inmates are repeat offenders.

Also, since the most serious crimes tend to be committed by the most violent offenders, it is natural to look at how many inmates have a history of violence, and particularly of repetitive violence. Locking up repetitive violent offenders carries the extra benefit that the crimes prevented through incarceration are likely to be more serious than average. Based on this agenda and the assumptions that go with it, three of the major goals of the present study were to determine as accurately as possible: 1) the number of repeat offenders in custody, 2) the number of violent offenders in custody, and 3) the number of repetitive violent offenders in custody.

In undertaking the research leading up to the report, the primary concern was to obtain the most complete reading possible of the criminal and violence histories of Arizona inmates. However, many other characteristics of inmates were considered in the process, including the nature and seriousness of current committing offenses, the amounts of time inmates are serving on current sentences, street and prison gang affiliation (if any), and inmate histories of institutional violence. Of particular interest was a determination not only of the sheer number of Non-Violent First Offenders in custody, but also of possible reasons for their incarceration. At the very least, one of the goals was to determine the factors that would weigh for or against their early release from custody. Logic and tradition dictate that if inmates are to be released early, Non-Violent First Offenders are generally the first to be targeted. Accordingly, it was our intent to thoroughly investigate the backgrounds of inmates in this category. The following constitutes a summary of the findings of the present investigation.

## Statistical Overview of the Arizona Prison Population (40,431)

### A. A History of Felony Violence

1. 52.6% of inmates are currently committed for one or more violent offenses (21,273)
2. 28.7% of inmates have a prior history of felony violence (11,608)
3. 65.4% of inmates have a current or prior history of felony violence (26,457)
4. 15.9% of inmates have a current and prior history of felony violence (6,424)
5. 34.6% of inmates have no history of felony violence (13,974)

### B. Criminal History

1. 83.8% of inmates are repeat felony offenders (33,896)
2. 16.2% of inmates are first felony offenders (6,535)
3. 56.0% of inmates have two or more prior felonies (22,639)
4. 44.4% of inmates have prior ADC commitments (17,947)

### C. Criminal and Violence History

1. 94.2% of inmates are violent or repeat offenders (38,088)
2. 55.1% of inmates are Violent Repeat Offenders (22,265)
3. 28.8% of inmates are Non-Violent Repeat Offenders (11,631)
4. 10.4% of inmates are Violent First Offenders (4,192)
5. 5.8% of inmates are Non-Violent First Offenders (2,343)

### D. Non-Violent First Offenders

1. 62.3% are committed for drug trafficking (1,460)
2. 54.2% have an ICE detainer on file (1,270)
3. 17.9% are serving a mandatory prison sentence (419)
4. 15.0% are technical probation or parole violators (351)
5. 22.2% are committed for a Class 2 felony (520)
6. 25.5% are serving terms of 4 years or more (598)
7. 18.7% have 2 years or more remaining to be served (438)
8. 97.2% exhibit factors either predisposing the present incarceration or weighing against early release (2,278)

### E. Gang Affiliation

1. 22.9% of inmates are suspected or validated members of prison or street gangs (9,260)
2. 79.9% of gang members have a history of felony violence
3. 46.6% of gang members have a prior history of felony violence
4. 23.4% of non-gang members have a prior history of felony violence
5. 62.3% of gang members have three or more prior felonies
6. 35.7% of non-gang members have three or more prior felonies
7. 45.6% of gang members have a history of institutional violence
8. 13.7% of non-gang members have a history of institutional violence
9. 63.4% of Security Threat Group (STG) members have a history of institutional violence
10. Gang members serve an average of 10 months more than non-gang members committed for the same types of crimes, including 3.1 years more for STG members

### F. Special Inmate Populations-Inmates Serving 1 Year or Less

1. 5.2% of inmates are committed with a sentence of 1 year or less (2,105)
2. 758=36.0% have a history of felony violence
3. 1,531=72.7% have prior felonies
4. 1,635=77.7% are violent or repeat felony offenders
5. 470=22.3% are Non-Violent First Offenders
6. 353=16.8%% are committed for a violent crime
7. 28=1.3% are committed for a sex crime
8. 548=26.0% are committed for a property crime
9. 78=3.7% are committed for drug trafficking
10. 568=27.0% are committed for drug possession
11. 436=20.7% are committed for DUI
12. 78=3.7% are committed for escape or a related offense
13. 16=0.8% are committed for a public order/morals offense

G. Special Inmate Populations-Technical Probation Violators

1. 3,780=9.3% of inmates were committed as technical probation violators
2. 1,985=52.5% have a history of felony violence
3. 3,137=83.0% have prior felonies
4. 3,440=91.0% are violent or repeat offenders
5. 340=9.0% are Non-Violent First Offenders
6. 810=21.4% are committed for a violent crime
7. 573=15.2% are committed for a sex crime
8. 879=23.3% are committed for a property crime
9. 443=11.7% are committed for drug trafficking
10. 479=12.7% are committed for drug possession
11. 522=13.8% are committed for DUI
12. 66=1.7% are committed for escape or a related offense
13. 8=0.2% are committed for a public order/morals offense

H. Special Inmate Populations-Inmates Committed for Drug Possession

1. 2,563=6.3% of inmates are committed for drug possession
2. 976=38.0% have a history of felony violence
3. 2,436=95.0% are repeat felony offenders
4. 2,442=95.3% are violent or repeat offenders
5. 121=4.7% are Non-Violent First Offenders

A variety of factors work together to determine who is in prison in Arizona, including the nature and volume of criminal activity in the state, the efficiency of law enforcement, prosecutorial and sentencing practices, the lengths of sentences authorized by statute, the criminal and violence histories of convicted felons, correctional interventions, and the behavior of inmates while in custody. The net effect of these factors working in tandem is that the vast majority of inmates (94.2%) are either violent or repeat offenders or both; just 2,343 or 5.8% are Non-Violent First Offenders. Furthermore, almost all Non-Violent First Offenders (97.2%) exhibit characteristics either explaining the present incarceration or weighing against an early release.



## Appendix: Data Collection and Categorization

In order to undertake an analysis of the Arizona prison population, an extensive array of data were requested from and provided by the Arizona Department of Corrections (ADC). The intent was to develop an objective, comprehensive profile of the Arizona prison population as of September 30, 2009. This particular date was selected because of the relative completeness of available data for that date in comparison to any later date. The data provided by the department consisted of Excel files containing records sorted by inmate number, and consisted of data loosely partitioned into the following categories:

- 1) ADC Offense Data: Information regarding each specific offense for which the inmate was ever committed to the department, including statute violated, felony class, sentence imposed, sentence enhancements, offense and sentencing dates, a probation revocation indicator, and other offense-specific information. Most of the determinants of offense severity were obtained from this file, as well as some determinants of repetitiveness.
- 2) ADC Movement Data: Data regarding the inmate's movements to and from the custody of the department, including dates of admission and release and the specific nature of those movements (court commitment, return to custody as release violator, Truth-in-Sentencing release, expiration of sentence, etc.). This file provided some determinants of repetitiveness, e.g., recommitments to the department and returns to custody of ADC release violators with new felony convictions.
- 3) ADC Sentencing Data: Sentence-begin dates, projected release dates, and other data related to an inmate's release eligibility. This data provided an accurate assessment of a) total time-to-be-served, b) time-served as of September 30, 2009, and c) time yet-to-be served. This file addressed the issue of offense severity.
- 4) ADC Custody Classification Data: The inmate's assigned custody level, as well as the data utilized to arrive at an appropriate custody level classification. This file provided some data regarding both offense severity and repetitiveness.
- 5) Personal History Data: Demographic and other personal history data on the inmate. This data, along with risk and needs data, gang affiliation data, time computation data, and selected excerpts from other files, appeared in a single "combined file" utilized by the department for a variety of purposes. This file provided the inmate identifiers that served as links between files.
- 6) ADC Risk and Needs Assessments: Data regarding the inmate's recidivism risk and need for programming in various areas, e.g., substance abuse, medical, mental health, etc. This data appeared in the original "combined" file.
- 7) Criminal History Data: Information regarding the documented prior criminal activity of the inmate, including the number of prior adult felony convictions, the number of

juvenile felony adjudications, and other available indicators of past criminal behavior. This data provided obvious indicators of repetitiveness.

- 8) ADC Disciplinary Data: Data on major disciplinary violations committed by the inmate, including indicators of violence during the period of incarceration. The data from this file served to augment the record on the inmate's history of disruptiveness and violent behavior. In each case of an incident identified in this file, the inmate was found culpable by a due process mechanism utilized by the department.
- 9) Gang Affiliation Data: Data regarding the inmate's affiliation with a prison or street gang, including the inmate's status as a member of a Security Threat Group (STG). This data was judged to provide an additional indicator of future violence based on known gang associations with violent activities both on the street and in prison.<sup>1</sup>
- 10) Sex Offender Data: Classification data kept by the department regarding current or prior sex or sex-related offenses, including both felony and misdemeanor convictions.

For purposes of this study, felonies were partitioned into the following categories:

- 1) Violent Offenses: Violations of Chapter 11: Homicide; Chapter 12: Assault and Related Offenses; Chapter 13: Kidnapping and Related Offenses (except for A.R.S. §13-1307: Sex Trafficking); A.R.S. §13-1508: Burglary in the First Degree; Chapter 17: Arson;<sup>2</sup> A.R.S. §13-1804: Theft by Extortion; Chapter 19: Robbery; A.R.S. §13-2308: Participating in or Assisting a Criminal Syndicate; A.R.S. §13-2308.01: Terrorism; A.R.S. §13-2321: Participating in or Assisting a Criminal Street Gang; A.R.S. §13-2504: Escape in the First Degree; A.R.S. §13-2903: Riot; A.R.S. §13-2904: Disorderly Conduct (reckless use of a deadly weapon or dangerous instrument); A.R.S. §13-2912: Unlawful Introduction of Disease or Parasite; A.R.S. §13-2921.01: Aggravated Harassment; A.R.S. §13-2923: Stalking; Chapter 31: Weapons and Explosives; A.R.S. §13-3601.02: Aggravated Domestic Violence; A.R.S. §13-3623: Child or Vulnerable Adult Abuse; A.R.S. §13-3704: Adding Poison or Other Harmful Substance to Food, Drink or Medicine; and A.R.S. §31-130: Destruction of or Injury to Public Jail.
- 2) Sex Offenses: Violations of A.R.S. §13-1307: Sex Trafficking; Chapter 14: Sexual Offenses; A.R.S. §13-3206: Taking a Child for Purpose of Prostitution; A.R.S. §13-3212: Child Prostitution; Chapter 35: Obscenity; Chapter 35.1: Sexual Exploitation of Children; A.R.S. §13-3608: Incest; and Chapter 38, Article 3: Registration of Sex Offenders and Offender Monitoring (considered a sex offense because the offender must be a convicted sex offender to be prosecuted under this statute).
- 3) Property Offenses: Violations of Chapter 15: Criminal Trespass and Burglary (except for A.R.S. §13-1508); Chapter 16: Criminal Damage to Property; Chapter 18: Theft (except for A.R.S. §13-1804); Chapter 20: Forgery and Related Offenses; Chapter 21: Credit Card

---

<sup>1</sup> The department has determined from statistical studies that members of prison and street gangs record much higher than average rates of violence in custody and much higher than average rates of violence while in the community.

<sup>2</sup> While arson is considered a property crime by the FBI, it is classified as violent for this study since it may and often does endanger persons either directly or by spreading away from the structure or area where it was set.

Fraud; Chapter 22: Business and Commercial Frauds; Chapter 23: Organized Crime, Fraud, and Terrorism (except for A.R.S. §13-2308, A.R.S. §13-2308.01, and A.R.S. §13-2321); Chapter 37: Miscellaneous Offenses (except for A.R.S. §13-3704); A.R.S. §13-4702: Conducting a Chop Shop; A.R.S. §23-785: False Statement, Misrepresentation or Nondisclosure of Material Fact to Obtain Benefits; A.R.S. §44-1841: Sale of Unregistered Securities; A.R.S. §44-1842: Transactions by Unregistered Dealers and Salesmen; and A.R.S. §44-1991: Fraud in Purchase or Sale of Securities.

- 4) Drug Trafficking: Violations of Chapter 34: Drug Offenses that involve the sale, possession for sale, acquisition, manufacture, production (marijuana), transport, or administration of dangerous drugs, narcotic drugs, marijuana, or precursor or regulated chemicals; A.R.S. §13-3409: Involving or Using Minors in Drug Offenses; A.R.S. §13-3411: Drug-Free School Zone Violation; A.R.S. §13-3417: Use of Wire Communication or Electronic Communication in Drug Related Transactions; A.R.S. §13-3421: Using Building for Sale or Manufacture of Dangerous or Narcotic Drugs; and Chapter 34.1: Imitation Substance or Drug Offenses.
- 5) Drug Possession: Violations of Chapter 34: Drug Offenses that involve the possession or use of dangerous drugs, narcotic drugs, or marijuana; A.R.S. §13-3403: Possession and Sale of a Vapor Releasing Substance Containing a Toxic Substance; and A.R.S. §13-3415: Possession, Manufacture, Delivery, and Advertisement of Drug Paraphernalia.
- 6) DUI: Felony violations of Article 3: Driving Under the Influence of Title 28: Transportation.
- 7) Escape and Related Offenses: Violations of Chapter 25: Escape and Related Offenses (except for A.R.S. §13-2504); A.R.S. §28-622.01: Unlawful Flight from Pursuing Law Enforcement Vehicle; and A.R.S. §28-661: Accidents Involving Death or Personal Injuries-Failure to Stop.
- 8) Public Order/Morals Offenses: Violations of Chapter 24: Obstruction of Public Administration; Chapter 26: Bribery; Chapter 27: Perjury and Related Offenses; Chapter 28: Interference with Judicial and Other Proceedings; Chapter 29: Offenses Against Public Order (except for A.R.S. §13-2903, A.R.S. §13-2904, A.R.S. §13-2912, A.R.S. §13-2921.01, and A.R.S. §13-2923); Chapter 30: Eavesdropping and Communications; Chapter 32: Prostitution (except for A.R.S. §13-3206 & A.R.S. §13-3212); and Chapter 36: Family Offenses (except for A.R.S. §13-3601.02, A.R.S. §13-3608, and A.R.S. §13-3623).

Criminal history variables from the ADC database that were used to determine repetitiveness include the following:

- 1) Number of Prior Adult Felony Convictions (0, 1, 2, etc.) as coded at intake.
- 2) Number of Prior Adult Felony Probations (0, 1, 2, etc.) as coded at intake.
- 3) Number of Juvenile Felony Adjudications (0, 1, 2, etc.) as coded at intake.

- 4) Number of Juvenile Commitments (0, 1, 2, etc.) as coded at intake.
- 5) Prior Felony Confinements (0, 1, 2+) as coded by ADC classification staff (partial data availability due to change in classification system).
- 6) Prior ADC Commitments (0, 1, 2, etc.) as determined from movement records.
- 7) Prior ADC Sentences (0, 1, 2, etc.) as determined from offense records.
- 8) Prior Felony Conviction for Sex or Sex-Related Offense as coded by ADC classification staff.
- 9) Status of Inmate as a Probation or ADC Release Violator with a New Felony Conviction as determined from offense and movement records.
- 10) Sentencing pursuant to A.R.S. §13-703: Repetitive Offenders, as determined from offense records (coded as non-repetitive, repetitive one, or repetitive two).
- 11) Sentencing pursuant to A.R.S. §13-708: Offenses Committed While Released from Confinement, as determined from offense records (yes or no).
- 12) Most serious prior adult felony conviction or juvenile felony adjudication as coded by ADC classification staff (A.R.S. reference given).
- 13) Post-commitment felony conviction as determined from movement and offense records.

Several of these items were coded at reception centers in conjunction with inmate admissions to the department. These are identified with the word “intake.” Reception staff utilize all available source documents to obtain criminal history information, however, comprehensive sources may not be available at that time, in which case these items were coded as missing. This is a major reason why the intake variables do not provide a complete assessment of criminal history. Items 5, 8, and 12 are coded by ADC classification staff. Since the new inmate classification system was installed in 2005, classification staff members have been coding item #12, which records the most serious prior felony. This is coded as a specific A.R.S. reference without qualification as to the length or nature of the sentence imposed or the applicability of a sentence enhancement.

Prior to the installation of the new classification system, a variable was coded to indicate a prior felony confinement history (#5). Where available, this variable was also utilized for the study. Finally, inmate classification staff is responsible for coding an item dealing with the offender’s status as a sex offender. This item (#8) indicates the fact of a current conviction for a felony sex or sex-related offense, or, if there is no such conviction, a prior felony of either type if such is documented in the offender’s record. The remaining six items are self-explanatory and were obtained by review of the movement and offense records provided for this study.

Based on a review of all of these records, an inmate was assigned the status of either:

- 1) Repeat Offender: Repetitive as determined by the presence of one or more priors in any one or more of the 13 criminal history categories.
- 2) First Offender: Non-repetitive as determined by a lack of priors in all of the 13 criminal history categories.

In addition, a new variable was coded to measure the total number of prior felonies by means of cross comparisons of all 13 criminal history source variables.

Repeat offenders were further coded according to the presence or absence of prior violent offenses, prior sex offenses, prior dangerous offenses pursuant to A.R.S. §13-704: Dangerous Offenders, and prior crimes against children pursuant to A.R.S. §13-705: Dangerous Crimes against Children, all based on ADC offense data. This data was used to identify and classify offenders with a history of prior felony violence or sex crime.

The combination of all of the above was judged to provide a relatively complete and comprehensive view of an inmate's prior record.

In addition to new criminal history variables, two variables were coded that addressed the means by which the inmate entered the custody of the department. They are as follows:

- 1) Admission Category: A variable describing the specific nature of the inmate's most recent admission to the department, including:
  - a. New Commitment by the Court
  - b. Recommitment by the Court
  - c. Admission as an ADC Release Violator
  - d. Return from Deportation at 1/2 Sentence
  - e. Return from Escape
  - f. Interstate Compact Placement (out-of-state inmate),
  - g. Return from Interstate Compact Placement (Arizona inmate)
- 2) Commitment Category: A variable describing the specific nature of the inmate's most recent commitment, including:
  - a. Direct Court Commitment
  - b. Probation Revocation with a New Felony Conviction
  - c. Probation Revocation for a Technical Violation
  - d. Commitment as a Condition of Probation
  - e. Commitment of an ADC Release Violator with a New Felony Conviction.

Current and Prior Offenses: To serve the purposes of the study, it was necessary to formulate exact criteria as to which ADC offenses would be considered "current offenses" and which would be considered "prior offenses." Obviously, one must know which offenses are current before current offenses can be assigned to categories. In addition, there is utility in selecting one current offense for status as "the most serious current offense." For this study, the decision was made to count an ADC committing offense as a current offense if either: 1) the sentence imposed for the offense has not expired (as of September 30, 2009), or 2) the sentencing date for the offense coincides with the most recent sentencing date among all offenses for which the offender has ever been committed to the department.

The reason criterion #1 is important is that some inmates receive new sentences while old ones are still running. In our opinion, this should not negate the status of the original (older) offense as a current offense. However, when the sentence for that older offense does expire, it is appropriate to call it a prior offense. The reason criterion #1 was not selected to stand alone is that the sentence for one offense may expire before the sentence for another offense associated with the same incident expires. For instance, an offender is sentenced to 5 years for Class 3 Theft and 4 years concurrent for Class 4 Robbery, both drawing from the same incident. In this

situation, the sentence for Robbery would expire while the sentence for Theft was still running. In such a situation, it would not be appropriate to call the Theft a current offense and the Robbery a prior offense. If the Robbery were to be labeled as a prior offense only, then, despite the fact that the incident was a violent one, the offender would nonetheless be classified as a current non-violent offender. Obviously, this would be inappropriate.

# Curriculum Vitae

Daryl R. Fischer, Ph.D.

## EDUCATION

1967. B.S., Mathematics, Iowa State University, Ames, Iowa

1969. M.S., Mathematics, Iowa State University, Ames, Iowa

1971. Ph.D., Mathematics, Iowa State University, Ames, Iowa

## EMPLOYMENT

August 1988 to May 2007

Research Manager (Retired)

Arizona Department of Corrections, Phoenix, Arizona

July 1985 to August 1988

Planning Director

Arizona Board of Pardons and Paroles, Phoenix, Arizona

April 1978 to July 1985

Research Manager

Iowa Statistical Analysis Center, Governor's Office for Planning and Programming

Parole Guidelines Project Manager, Iowa Board of Parole, Des Moines, Iowa

February 1975 to April 1978

Research Statistician

Bureau of Correctional Evaluation, Iowa Department of Social Services, Des Moines, Iowa

June 1971 to January 1975

Assistant Professor of Mathematics

University of Dubuque, Dubuque, Iowa

September 1969 to February 1971

Instructor of Mathematics

Iowa State University, Ames, Iowa

June 1967 to September 1969

Graduate Teaching Assistant

Iowa State University, Ames, Iowa

## **AWARDS**

1973. Outstanding Educator of America, University of Dubuque, Dubuque, Iowa

1983. Co-Winner, J. Paul Sylvestre Award for Excellence in Criminal Justice Statistics; Bureau of Justice Statistics, U.S. Department of Justice, Washington, D.C.

1983. Certificate of Appreciation for Outstanding Contribution to Criminal Justice Statistics in Developing Techniques for Risk Assessment; Bureau of Justice Statistics, U.S. Department of Justice, Washington, D.C.

1993. Governor's Award for Excellence, State of Arizona

2000. Supervisor of the Year, Arizona Department of Corrections

2005. Flagship Award, Arizona Department of Corrections.

## **PUBLICATIONS (Partial Listing)**

Community Corrections in Iowa, co-author with Darold Powers, Bureau of Correctional Evaluation, Iowa Department of Social Services, 1975.

Evaluation of the Ft. Des Moines Community Corrections Facility, Bureau of Correctional Evaluation, Iowa Department of Social Services, 1976.

Iowa Adult Corrections Masterplan, co-author with Susan Sleeper, Iowa Crime Commission and Iowa Department of Social Services, 1977.

Crime and Criminal Justice in Iowa: Volumes I-IX; Iowa Statistical Analysis Center, 1978-1981.

Risk Assessment in Iowa, Iowa Statistical Analysis Center, November 1980.

Offender Risk Assessment: Implications for Sentencing and Parole Policy, Iowa Statistical Analysis Center, April 1981.

The Impact of Objective Parole Criteria on Parole Release Rates and Public Protection, Final Report to the General Assembly, Parole Guidelines Project, Iowa Statistical Analysis Center, January 1983.

"Better Public Protection with Fewer Inmates," Corrections Today, December 1983.

"The Use of Actuarial Methods in Early Release Screening," Proceedings of the American Correctional Association, 1983.



“Policy Relevance in Criminal Justice Research,” co-authored with Paul Stageberg, Proceedings of the American Statistical Association, 1983.

Risk Assessment: Sentencing Based on Probabilities, Iowa Statistical Analysis Center, April 1984.

Prediction and Incapacitation: Issues and Answers, An Overview of the Iowa Research on Recidivism and Violence Prediction, Iowa Statistical Analysis Center, January, 1985, findings presented at the American Society of Criminology, 1984.

Prison Population, Parole, and Offender Risk Assessment in Iowa: An Overview, Iowa Statistical Analysis Center, July 1985.

Parole Risk Assessment: A Tool for Management of Prison Populations and Recidivism, presented at the International Symposium on Parole, Lyndon B. Johnson School for Public Affairs, Austin, Texas, April 1986.

Microcomputers and Parole Decision-Making, presented at MEGATRENDS: A Correctional Perspective, 48<sup>th</sup> Annual Training Institute of The Western Correctional Association, September 1986.

“Targeting the ‘Superfelon’,” Guest Editorial for The Des Moines Register, Des Moines, Iowa, October 1986.

The Arizona Model of Parole Risk Assessment: Description and Validation, Arizona Board of Pardons and Paroles, October 1986.

“Parole Risk Assessment: A Tool for Managing Prison Populations and Recidivism,” Observations on Parole: A Collection of Readings from Western Europe, Canada and the United States, Association of Paroling Authorities International, November 1987.

Mandatory Sentencing Study, Arizona Department of Corrections, February 1992.

Ethical and Legal Issues Regarding Research with Prisoners from an Administrative Viewpoint, Arizona Department of Corrections, January 1993.

The Impact of Truth in Sentencing on Sentence Structure, submitted to the Subcommittee on Truth in Sentencing of the House Judiciary Committee, Arizona Department of Corrections, February 1993.

Recidivism Study: 1988 Releases, Arizona Department of Corrections, November 1993.

Sentencing Comparison (1991): Arizona versus the Nation, Arizona Department of Corrections, August, 1994.

Shock Incarceration Outcome Study, Arizona Department of Corrections, April 1995.

Prisons in America: Money Well Spent, Arizona Department of Corrections, May 1995.

G.E.D. Recidivism Study, Arizona Department of Corrections, June 1995.

Prison Population on the Rise!, Arizona Department of Corrections, July 1995.

Prison Siting Analysis: A Comparison of Proposed Sites near Florence and Buckeye, Arizona, July 1995.

Marana Community Correctional Treatment Facility: An Interim Operational Evaluation, Arizona Department of Corrections, October 1995.

Truth-in-Sentencing Impact Study: First Interim Report, Arizona Department of Corrections, January 1996.

Arizona Inmate Recidivism Study, Arizona Department of Corrections, June 1996.

Inmate Population Profile: December 31, 1995, prepared for the Criminal Justice Review Committee of the State of Arizona, October 1996.

STAFTRAK Summary Report: July - December 1996, Arizona Department of Corrections, March 1997.

Inmate Assaults on Staff: 1994 - 1996, Arizona Department of Corrections, June 1997.

STAFTRAK Annual Report: Fiscal Year 1997, Arizona Department of Corrections, December 1997.

STAFTRAK Annual Report: Fiscal Year 1998, Arizona Department of Corrections, October 1998.

The Facts About Crime and Punishment in Arizona, Arizona Department of Corrections, December 1998.

The Facts About Sex Offenders in Arizona, Arizona Department of Corrections, April 1999.

Quality of Work Life Survey Report, Volumes I-III, Arizona Department of Corrections, April 2000.

Sex Offender Risk Assessment Validation Study, Arizona Department of Corrections, August 2000.

Security Threat Group (STG) Program Evaluation, Final Report to The National Institute of Justice, Principal Investigator, Arizona Department of Corrections, December 2001.

Drug Free State Prison Demonstration Project, Final Evaluation Report to The National Institute of Corrections, Arizona Department of Corrections, March 2002.

2001 Quality of Work Life Mini-Survey Report, Arizona Department of Corrections, July 2002.

Inmate Program Evaluation: Executive Summary, Arizona Department of Corrections, October 2003.

Arizona Inmate Recidivism Study, Arizona Department of Corrections, November 2005.